

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
rolled Bills, have had S. B. No. 465
carefully examined, compared and
read, and find same correctly en-
rolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. C. R. No. 64
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of
the Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 493
carefully examined, compared and
read, and find same correctly en-
grossed.

LANNING, Chairman.

EIGHTY-NINTH DAY

(Tuesday, June 20, 1939)

The Senate met at 10:00 o'clock
a. m., pursuant to adjournment, and
was called to order by President
Stevenson.

The roll was called, and the fol-
lowing Senators were present:

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

A quorum was announced present.

The invocation was offered by the
Chaplain.

On motion of Senator Aikin, and
by unanimous consent, the reading
of the Journal of the proceedings
of yesterday was dispensed with and
the Journal was approved.

Leave of Absence Granted

Senator Brownlee was granted leave
of absence for this morning on ac-
count of important business, on mo-
tion of Senator Winfield.

Senate Resolution 100

Senator Van Zandt offered the fol-
lowing resolution:

Whereas, The Texas Bar Associa-
tion has made its plans to hold its
fifty-eighth Annual Convention here
in the City of Austin, June 29, 30 and
July 1; and

Whereas, A number of the mem-
bers of said Association are desirous
that the general sessions of the Con-
vention be held in the Senate Cham-
ber; therefore, be it

Resolved by the Senate of Texas,
That an invitation is hereby extend-
ed to the Texas Bar Association to
hold its Annual Convention in the
Senate Chamber on June 29, 30 and
July 1, 1939, and that a copy of this
resolution be sent to Hon. Ben H.
Powell, the President of such Asso-
ciation.

The resolution was read; and by
unanimous consent, it was considered
immediately and was adopted.

Senate Concurrent Resolution 67

Senator Moffett offered the follow-
ing resolution:

Whereas, The United States Gov-
ernment has recently and successfully
tried a "stamp" plan of free distri-
bution of certain surplus food com-
modities in several cities of the
United States whereby a certain pro-
portion of surplus food commodities
are given free to relief clients by
means of a "stamp" plan, with each
weekly pay check, thereby diminish-
ing an accumulated surplus of certain
food commodities, to the benefit of
people who sorely need them, all
without disruption of the ordinary
channels of trade and with the mini-
mum cost and expense to the Federal
Government; and

Whereas, There are thousands of families in the United States that are definitely in need of cotton goods, and same would be of direct and lasting benefit to said families; and

Whereas, There is now the largest surplus of cotton ever known in the United States; now, therefore, be it

Resolved by the Senate of Texas, the House concurring, That the Secretary of Agriculture is hereby requested and urged to promulgate and put into operation a plan for distribution of cotton goods on a basis similar to the successful "stamp" plan already in operation for the distribution of surplus food commodities; and be it further

Resolved, That a copy of this resolution be sent to the Secretary of Agriculture and to the members of the National Congress from the State of Texas.

The resolution was read; and on motion of Senator Moffett, and by unanimous consent, it was considered immediately.

The resolution was adopted.

Senate Resolution 101

Senator Spears offered the following resolution:

Whereas, There is no picture hanging in the Capitol of any member of the Twelfth Legislature, which met in the year 1869 through the year 1872; and

Whereas, A picture of Senator Boliver J. Pridgen from the 24th Senatorial District, which comprised Calhoun, Jackson, Victoria, Refugio, San Patricio, Bee, Goliad and De Witt Counties is available; and

Whereas, Senator Boliver J. Pridgen, who was born in the year 1829 in North Carolina and immigrated to Texas by choice in his early thirties; and fought with Generals Scott and Taylor until the close of the Mexican War in 1849; and served under President Harrison's administration as Consul to Mexico, and Postmaster at Eagle Pass, Texas; and

Whereas, He was active as a member of the Education Committee which framed Senate Bill No. 166 establishing a system of Public Free Schools in the State of Texas; and

Whereas, He was chairman of the Committee on Enrolled Bills, a member of the Committee to Examine Comptroller's and Treasurer's Accounts, and was also a member of

the Committee on Agricultural Affairs; and

Whereas, He was a man of great courage and convictions who stood by his constituencies in carrying out problems to be enacted for the people regardless of party affiliation, trusts, and agreements; now, therefore, be it

Resolved by the Senate of the State of Texas, That this picture of Senator Boliver J. Pridgen be received by this body, and that the Secretary thereof be instructed to turn same over to the custody of the Board of Control, with the request to said Board that this picture be hung in an appropriate place in the Capitol Building as an appropriate recognition, not only of the service of Senator Pridgen himself, but of the courage and spirit that he, in his life, represented.

SPEARS,
ROBERTS.

The resolution was read; and on motion of Senator Spears, and by unanimous consent, it was considered immediately.

The resolution was adopted.

Senate Concurrent Resolution 68

Senator Sulak offered the following resolution:

Whereas, The State Highway Department of Texas has a large quantity of discarded guard wire in Fayette County; and

Whereas, The Carmine School District of Fayette County anticipates a large number of people attending dedication of a new school building to be held in the early autumn of this year; and

Whereas, It will be necessary and important to said School District to fence the grounds where said meet will be held; and

Whereas, It would be a great accommodation to said School District if the State Highway Department were permitted to loan said District the discarded wire hereinabove mentioned for the purpose of fencing the grounds; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the State Highway Department of Texas be authorized to loan to the School Board of Carmine School District sufficient quantities of the discarded wire hereinabove mentioned for the purposes as hereinabove set out,

said School Board to return wire upon request of the State Highway Department, and it is so resolved.

The resolution was read; and on motion of Senator Sulak, and by unanimous consent, it was considered immediately.

The resolution was adopted.

Report of Conference Committee on Senate Bill 490

Senator Winfield submitted at this time the following report:

Committee Room,
Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill No. 490, do report that we have had the same under consideration and recommend to the Senate and House of Representatives that it do pass in the form attached hereto.

Respectfully submitted,
WINFIELD,
KELLEY,
BROWNLEE,
STONE of Galveston,
SPEARS,

On the part of the Senate.

GOODMAN,
LEONARD,
CAUTHORN,
LEYENDECKER,
CELAYA,

On the part of the House.

S. B. No. 490. By Winfield.

A BILL

TO BE ENTITLED

An Act making appropriation to defray the equitable portion which the State of Texas should make available to the United States Government, or its agencies for completion of the water survey of the Rio Grande River and its watershed from Fort Quitman south to the mouth of the Rio Grande River; enacting provisions incident to and relating to the subject; and making

an appropriation of Thirty Thousand (\$30,000.00) Dollars, or so much thereof as may be necessary to aid and facilitate the work to be performed by the Red Bluff Water Power Control District; and declaring an emergency.

Whereas, The Regular Session of the Forty-fifth Legislature enacted Chapter 18, under the provisions of which the State made available \$18,333.33 to pay the State's portion of the cost of the Rio Grande River Joint Investigation then being conducted by the National Resources Committee, through the Water Resources Committee, under an appropriate Act of Congress; and

Whereas, The agencies of the United States Government, including said National Resources Committee, are utilizing said funds furnished by the State of Texas along with some \$300,000.00 of money furnished by the United States Government and other States, in making a complete survey of the Rio Grande Watershed from its source in the State of Colorado to Fort Quitman south of the City of El Paso, Texas; and

Whereas, Due to the intense development of agricultural lands in the Lower Rio Grande Valley of Texas, and to the necessity of determining the other economical uses which can be made of such water under the provisions of Article XVI, Section 59 of the Constitution and laws enacted pursuant thereto, there is immediate necessity that said survey be extended and completed so as to make similar information available concerning the Rio Grande River and its watershed between Fort Quitman and the mouth of the river near Brownsville; and

Whereas, The State of Texas is willing to pay as its contribution toward the making of such completed water survey, the sum of money hereinafter specified and appropriated; and

Whereas, The Legislature is assured that said National Resources Committee, through the Water Resources Committee and other agencies of the United States Government, are willing to cooperate in completing said survey from Fort Quitman to the mouth of the Rio Grande River, involving an expenditure of \$300,000.00 or more.

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated for the payment of what is considered the State's part of the cost of making a complete water survey of the Rio Grande River and its watershed from Fort Quitman, Texas, to the mouth of said river, to be used with other funds to be furnished by the United States Government and its agencies in making such complete survey, the sum of \$35,000.00. This appropriation, however, is contingent upon the United States Government, or one or more of its agencies, matching same by appropriating, or allocating, for the purposes set forth herein the total sum of not less than \$250,000, including the moneys heretofore expended and to be expended under the allocation of \$130,000.00 made to the State Department in 1938, and now being spent by the said State Department through the American Branch of the International Boundary Commission.

Sec. 2. Said appropriation shall remain available for such use until expended, provided that the Governor of the State of Texas shall receive official notice from the United States Government, or one or more of its agencies, prior to January 1, 1941, that such survey will be undertaken by the United States Government, or one or more of its agencies. If no such official notice shall be communicated to the Governor of the State of Texas by said date, the appropriation hereby made shall lapse and said appropriated money shall be placed to the credit of the General Fund of the State of Texas.

Sec. 3. Said money may be expended upon vouchers approved by the Governor of Texas. As and when a voucher is approved by the Governor, the Comptroller of Public Accounts is authorized to draw a warrant on the State Treasurer in the amount of the approved voucher, payable to the order of the payee named in such voucher.

Sec. 4. There is hereby appropriated for the use of the Red Bluff Water Power Control District, out of any funds in the State Treasury not heretofore otherwise appropriated, the sum of Thirty Thousand (\$30,000.00) Dollars, which may be withdrawn from time to time on vouchers signed

by the General Manager and Treasurer of said District, upon approval of the Chairman of the Board of Water Engineers of the State of Texas, upon which the State Comptroller shall draw his warrant upon the Treasurer of the State of Texas; provided said funds are to be used under the direction and only with the consent of the Directors of the Red Bluff Water Power Control District, and approval of the Board of Water Engineers of the State of Texas.

Sec. 5. The fact that the richest agricultural development in the State of Texas is situated near the mouth of the Rio Grande River, that said lands are almost wholly dependent on irrigation through waters made available in the channel of the Rio Grande River; that the stability of said supply is seriously threatened, thus necessitating a complete survey to assure the use of available water to the fullest degree of efficiency; that other economical uses be made of such waters as required under the Constitution of the State; that the lands in the Lower Rio Grande Valley are subjected to torrential floods; and the further fact, with regard to the appropriation made for the benefit of the Red Bluff Water Power Control District, that said appropriation is important and necessary in making adequate surveys in order to obtain aid from the Federal Government create an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule that bills be read on three several days in each House, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Report of Conference Committee on House Bill 971

Senator Beck submitted at this time the following report:

Austin, Texas,
May 24, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on H. B. No. 971, have met and beg leave to recommend that said

H. B. No. 971 be passed in the form hereto attached.

Respectfully submitted,

BECK.
PACE,
BURNS,
MOORE,
COTTEN,

On the part of the Senate.

WHITE,
HARPER,
CORNETT,
READER of Bexar,

On the part of the House.

H. B. No. 971.

A BILL

TO BE ENTITLED

An Act authorizing and empowering the Commissioners' Court to fix the compensation of the Sheriff, Tax Collector - Assessor, County Clerk, County Judge, District Clerk, and County Attorney in all counties in this State having a population of not less than forty-eight thousand, five hundred and thirty (48,530) and not more than forty-eight thousand, nine hundred thirty (48,930), according to the last preceding Federal Census; fixing maximum and minimum salaries for such officers; fixing the mode and manner of the payment of such salaries; fixing the effective date of this Act; repealing all laws and parts of laws in conflict herewith, to the extent of the conflict only.

Be it enacted by the Legislature of the State of Texas:

Section 1. That from and after January 1, 1940, being the effective date of this Act in all counties in this State having a population of not less than forty-eight thousand, five hundred and thirty (48,530) and not more than forty-eight thousand, nine hundred and thirty (48,930), according to the last preceding Federal Census, the Commissioners' Courts shall have the power and authority to fix the salaries of the Sheriff, the Tax Assessor-Collector, the County Clerk, the County Judge, the District Clerk, and the County Attorney; provided, however, that the salary of the Sheriff shall not be fixed in excess of the sum of Four Thousand, Two Hundred Fifty Dollars (\$4,250.00) per annum, nor less than the sum of

Three Thousand, Six Hundred Dollars (\$3,600.00) per annum; the salary of the Tax Assessor-Collector shall not be fixed in excess of the sum of Four Thousand Dollars (\$4,000.00) per annum, nor less than the sum of Three Thousand, Six Hundred Dollars (\$3,600.00) per annum; the salary of the County Clerk shall not be fixed in excess of the sum of Four Thousand Dollars (\$4,000.00) per annum, nor less than the sum of Three Thousand, Three Hundred Dollars (\$3,300.00) per annum; the salary of the County Judge shall not be fixed in excess of the sum of Three Thousand, Two Hundred Dollars (\$3,200.00) per annum, nor less than the sum of Two Thousand, Seven Hundred Dollars (\$2,700.00) per annum; the salary of the District Clerk shall not be fixed in excess of the sum of Three Thousand, Three Hundred Dollars (\$3,300.00) per annum, nor less than the sum of Two Thousand, Seven Hundred Dollars (\$2,700.00) per annum; the salary of the County Attorney shall not be fixed in excess of the sum of Three Thousand Dollars (\$3,000.00) per annum, nor less than the sum of Two Thousand, Seven Hundred Dollars (\$2,700.00) per annum.

Sec. 2. All such salaries shall be paid in twelve (12) equal installments per year, and paid from funds now provided by law for payment of such officials.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

Relative to Printing of Statement in the Journal

Senator Burns asked unanimous consent of the Senate to have a statement showing the prices of certain trade-marked articles as of June 19, 1939, printed in the Journal.

The President announced there was objection to the request.

Senator Burns moved to suspend Senate Rule 11b in order that he might move at this time to have the statement printed in the Journal.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—17

Aikin	Moore
Beck	Pace
Burns	Redditt
Collie	Shivers
Cotten	Small
Isbell	Stone
Lanning	of Washington
Martin	Van Zandt
Metcalf	Weinert

Nays—11

Graves	Roberts
Hardin	Spears
Head	Stone
Lemens	of Galveston
Moffett	Sulak
Nelson	Winfield

Absent

Hill	Kelley
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Absent—Excused

Brownlee

House Joint Resolution 45 on
Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to permit consideration of H. J. R. No. 45 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. J. R. No. 45, Proposing an amendment to Article 8, Section 9, of the Constitution of the State of Texas by adding a new Section thereto to be known as Section 9-A; providing that the Commissioners' Court of Red River County, after a majority vote of the resident qualified electors owning taxable property therein, shall have the authority to levy a tax of not to exceed Twenty-five (25c) Cents on the One Hundred (\$100.00) Dollar valuation for a period not exceeding fifteen (15) years for the purpose of refunding the outstanding warrant indebtedness of the General Fund of the County by the issuance of bonds under the provisions of the general laws regulating the refunding of outstanding debts of the County; providing for the necessary proclamation; and appropriating funds to defray the expenses of the proclamation; publication and election.

The resolution was read second time and was passed to third reading.

House Joint Resolution 45 on
Third Reading

Senator Aikin moved that the Senate rule requiring joint resolutions to be read on three several days be suspended and that H. J. R. No. 45 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

The President then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—28

Aikin	Moffett
Beck	Moore
Burns	Nelson
Collie	Pace
Cotten	Redditt
Graves	Roberts
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Winfield

Nays—2

Shivers	Weinert
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Absent—Excused

Brownlee

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 1096, A bill to be entitled "An Act to create the appointive office of Assistant to the County Judge and to provide an equitable and sufficient salary thereto, repealing all laws in conflict, and declaring an emergency."

H. C. R. No. 198, Giving immediate effect to House Bill No. 912 of the Acts of the Regular Session of the Forty-sixth Legislature.

H. C. R. No. 200, Granting Tilford Moore permission to sue the State of Texas and/or State Highway Department.

The House has refused to adopt the Conference Committee report on H. B. No. 92 by a vote of 56 ayes and 66 noes.

The House has concurred in Senate amendments to H. B. No. 426 by a vote of 137 ayes, 4 noes.

The House has adopted the Conference Committee report on S. B. No. 224 by a vote of 76 ayes, 54 noes.

The House has concurred in Senate amendments to H. C. R. No. 179 by a viva voce vote.

The House has passed the following:

S. B. No. 261, A bill to be entitled "An Act making it unlawful to kill quail in Gaines, Terry and Yoakum Counties, Texas; providing the Act shall be in force for a period of five (5) years; repealing all laws in conflict; providing a penalty for the violation of this Act, and declaring an emergency."

S. B. No. 433, A bill to be entitled "An Act to enable common school districts in each county of Texas having a population of not less than eleven thousand twenty-one (11,021)

nor more than eleven thousand fifty (11,050) according to the latest Federal Census, to vote bonds, levy taxes for the same, for the purpose of purchasing not more than one school bus, or one school bus body, or one school bus chassis; repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 1139, A bill to be entitled "An Act to authorize the Commissioners' Court of Childress County to make a land grant to the State Park Board of the State of Texas for the purpose of creating a State Park, and declaring an emergency."

H. B. No. 1141, A bill to be entitled "An Act creating a special road law for Frio County, Texas, providing that said County may fund or refund the indebtedness outstanding against its Road and Bridge Fund as of June 12th, 1939, setting forth the method of operation; validating the indebtedness proposed to be funded or refunded; providing this law shall be cumulative of General Laws on the subject of roads and bridges and General Laws on funding or refunding bonds not in conflict herewith; enacting provisions incident and relating to the subject and purpose of this Act; repealing all laws in conflict, and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY,
Chief Clerk, House of Representatives.

House Bills on First Reading

The following bills, received from the House today, were laid before the Senate, read severally first time, and referred to the committees indicated:

H. B. No. 1139, to Committee on Public Lands and Land Office.

H. B. No. 1141, to Committee on State Highways and Motor Traffic.

H. B. No. 1096, to Committee on Towns and City Corporations.

House Bill 344 on Passage to Third Reading**(Unfinished Business)**

The President laid before the Senate, as the unfinished business, on its passage to third reading (the bill having been read second time on May 23, 1939):

H. B. No. 344, A bill to be entitled

"An Act defining publication, newspaper, political sub-division, district and certain mandatory expressions; designating persons to select newspapers in which publications are to be inserted; fixing a minimum and a maximum charge for publications in newspapers; providing for the publication of notices, proclamations, advertising, and citations in newspapers; repealing conflicting provisions of Articles 3, 29, 1154, 3311, 3334, 3808, 4204, 7206, 7276, 7342 and 7624 of the Revised Civil Statutes of Article 4115 of the Revised Civil Statutes as amended by Acts of 1935, Forty-fourth Legislature, Chapter 254, Section 1, of Acts of 1925, Thirty-ninth Legislature, Chapter 161, Sections 2 through 6, of Acts of 1933, Forty-third Legislature, First Called Session, Chapter 84, Section 1, and of Acts of 1937, Forty-fifth Legislature, Chapter 506; repealing all parts of laws in conflict; providing a rule of construction, and declaring an emergency."

Senator Nelson moved the previous question on the passage of the bill to third reading, and the motion was duly seconded.

The main question was ordered by the following vote:

Yeas—17

Beck	Redditt
Collie	Roberts
Graves	Small
Hardin	Spears
Kelley	Stone
Lanning	of Galveston
Metcalf	Sulak
Moffett	Van Zandt
Nelson	

Nays—9

Aikin	Moore
Burns	Pace
Cotten	Weinert
Hill	Winfield
Isbell	

Present—Not Voting

Head

Absent

Lemens	Stone
Martin	of Washington
Shivers	

Absent—Excused

Brownlee

Question then recurring on the passage of the bill to third reading, yeas and nays were demanded.

The bill was passed to third reading by the following vote:

Yeas—19

Aikin	Moffett
Beck	Nelson
Graves	Redditt
Hardin	Roberts
Head	Shivers
Hill	Small
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Winfield
Metcalf	

Nays—9

Burns	Pace
Collie	Spears
Cotten	Van Zandt
Martin	Weinert
Moore	

Absent

Stone
of Washington

Absent—Excused

Brownlee

Motion to Suspend Constitutional Rule

Senator Head moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 344 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—21

Aikin	Metcalf
Beck	Moffett
Collie	Nelson
Graves	Redditt
Hardin	Roberts
Head	Shivers
Hill	Small
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Winfield

Nays—8

Burns	Pace
Cotten	Spears
Martin	Van Zandt
Moore	Weinert

Absent

Stone
of Washington

Absent—Excused

Brownlee

House Bill 990 on Third Reading

On motion of Senator Lanning and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 990 at this time.

The President laid before the Senate on its third reading and final passage:

H. B. No. 990, A bill to be entitled "An Act amending Article 7117, Revised Civil Statutes of the State of Texas, 1925, as amended, Acts, 1929, Forty-first Legislature, First Called Session, Chapter 50, page 109, Section 1, defining transfers in contemplation of death and providing for a tax on same; amending Article 7118, Revised Civil Statutes of the State of Texas, 1925, as amended, Acts, 1935, Forty-fourth Legislature, Chapter 356, page 922, paragraph 1; amending Article 7119, Revised Civil Statutes of the State of Texas, 1925, as amended, Acts, 1927, Fortieth Legislature, Chapter 62, page 87, Section 1: amending Article 7120, Revised Civil Statutes of the State of Texas, 1925; amending Article 7121, Revised Civil Statutes of the State of Texas, 1925, as amended, Acts, 1927, Fortieth Legislature, Chapter 62, page 87, Acts, 1931, Forty-second Legislature, Chapter 72, page 109, Acts, 1933, Forty-third Legislature, Chapter 192, page 581, Section 2-b, Sub section 20, providing in each case for an increase in taxes by lowering the brackets and increasing the rates of taxation to each class; amending Article 7125, Revised Civil Statutes of the State of Texas, 1925, as amended, Acts, 1929, Forty-first Legislature, Chapter 26, page 60, Section 1, so as to more clearly define deductions permissible for inheritance tax purposes; amending Article 7130, Revised Civil Statutes of the State of Texas, 1925, so as to provide for notice of appraisement to the Comptroller and providing for judicial review of the report of appraisement; amending Article 7131, Revised Civil Statutes of the State of Texas, 1925,

so as to provide for suspension of assessment of inheritance taxes pending a judicial review thereof; amending Section 9, Chapter 192, page 588, Acts of 1933, Forty-third Legislature, Regular Session and providing for certification of probate papers to the Comptroller, assessing the costs to the estate; providing for the giving of such information to the Comptroller and fixing a penalty for violation; amending Article 7135, Revised Civil Statutes of the State of Texas, 1925, and providing for the approval by the Comptroller of a County Judge's finding that no inheritance tax is due; declaring that the provisions of this Act shall be severable; saving to the State any claim for inheritance tax existing under the laws in effect prior to the enactment of this Act; and providing for the collection of such taxes; repealing all laws in conflict with this Act, and declaring an emergency."

The bill was read third time and was passed.

Record of Vote

Senator Aikin asked to be recorded as voting "nay" on the passage of the bill.

Bills and Resolutions Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills and resolutions:

H. B. No. 190, "An Act making the giving of any check, draft or order for money upon any bank, firm, person or corporation, a felony, providing the person so giving such check, draft or order has not at the time of giving such check, draft or order sufficient funds deposited with such bank, firm, person or corporation to pay such check, draft or order; providing for the punishment for violation thereof; repealing Section 4 of Article 1546 of the Penal Code of the State of Texas as revised in 1925, and declaring an emergency."

H. B. No. 1108, "An Act providing that taxes levied by other entities under and by virtue of Article 3, Section 52, of the Constitution shall never be reckoned in determining the power of any city or town to levy taxes; providing that in the event of conflict between this Act and any

provisions of a city charter or of a special law constituting a charter of a city the provisions of this Act shall prevail, and declaring an emergency."

H. B. No. 1104, "An Act fixing the compensation for County Commissioners in certain counties; providing the manner of payment and prescribing the funds from which it shall be paid; providing for traveling expenses for County Commissioners in certain counties; providing the manner of payment and prescribing the funds from which they shall be paid; repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

H. C. R. No. 194, Relating to granting aid to counties included in the provisions of Senate Bill No. 89, passed by the Regular Session of the Forty-sixth Legislature.

H. C. R. No. 171, Authorizing the Metropolitan Building and Loan Association, et al, to sue the State.

H. C. R. No. 190, Granting Mrs. V. E. Howard permission to bring suit against the State of Texas and the State Highway Department.

Reports of Standing Committees

By unanimous consent, the following reports were submitted at this time:

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

H. B. No. 878, A bill to be entitled "An Act to amend Section 1 of Senate Bill No. 94, Second Called Session of the Thirty-eighth Legislature, Chapter 7, Special Laws of 1923; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and be not printed.

AIKIN, Chairman.

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on High-

ways and Motor Traffic, to whom was referred

H. B. No. 1141, A bill to be entitled "An Act creating a Special Road Law for Frio County, Texas, providing that said county may fund or refund the indebtedness outstanding against its Road and Bridge Fund as of June 12th, 1939, setting forth the method of operation; validating the indebtedness proposed to be funded or refunded; providing this law shall be cumulative of General Laws on the subject of roads and bridges and General Laws on funding or refunding bonds, not in conflict herewith; enacting provisions incident and relating to the subject and purpose of this Act; repealing all laws in conflict, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

BROWNLEE, Chairman.

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

H. B. No. 1096, A bill to be entitled "An Act to create the appointive office of Assistant to the County Judge in certain counties; and to provide an equitable and sufficient salary therefor; repealing all laws in conflict; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

HILL, Chairman.

Report of Conference Committee on Senate Bill No. 179

Senator Metcalfe submitted the following report:

Hon. Coke R. Stevenson, President of the Senate;

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House on S. B. No. 179,

Have had the same under consideration and beg leave to recommend that S. B. No. 179 be passed in the form hereto attached.

Respectfully submitted,
METCALFE,
SHIVERS,
SMALL,
HILL,

On the part of the Senate;

HARDEMAN,
FUCHS,
RUSSELL,
CLARK,
CELAYA,

On the part of the House.

S. B. No. 179. By Metcalfe.

A BILL

TO BE ENTITLED

An Act amending Sections 13, 7, and 12 of House Bill No. 247, Chapter 44, Acts of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, Acts of the Regular Session of the Forty-fourth Legislature, providing for refund of tax upon motor fuel used for purposes other than use in a motor vehicle operated upon the public highways, roads, or streets of the State of Texas, and requiring any person who sells motor fuel upon which a refund of the tax is authorized to secure license from the Comptroller before making sale of such refund motor fuel; authorizing the Comptroller to issue license to the person selling refund motor fuel, and to prescribe rules and regulations; providing penalties for violation of the Act; requiring the Comptroller to prescribe forms of license, giving him authority to revoke and cancel license for violation of the Act; prohibiting the issuance of warrants in payment of refund under certain conditions; providing for the issuance of invoices of exemption and requirements thereunder; providing for the furnishing by the Comptroller to licensee blank invoices of exemption and requiring the licensee to account for all such invoices of exemption; providing for the method of filing claims for refund of the tax; providing for a filing fee and appropriating same for administration of this Act; providing for the issuance of duplicate warrants; providing that all taxes,

finer, penalties and interest due by any distributor shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, upon all the property of any distributor; providing that the Comptroller may employ auditors to ascertain the correct amount of taxes due, and the expense of such auditor shall be borne by the distributor; providing that when a distributor erroneously pays more taxes than due in any taxpaying period the Comptroller may credit the current tax payment with the amount of taxes so erroneously paid; providing that any person violating the provisions of this section shall be liable for the penalty provided in Section 9, House Bill No. 247, Chapter 44, General Laws of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, Acts of the Regular Session of the Forty-fourth Legislature; providing that the bill shall become effective from and after September 1, 1939; providing that if any section, subsection, sentence, clause or phrase in this Act shall be held or declared to be unconstitutional or invalid for any reason, such holding shall not impair or affect the remaining portions of this Act, and the same shall be and remain in full force and effect; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 13 of House Bill No. 247, Chapter 44, Acts of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, Acts of Forty-fourth Legislature, Regular Session, be amended so as to hereafter read as follows:

"Section 13. (a) Any person who purchases motor fuel in the State of Texas, and any distributor who appropriates motor fuel for use when such motor fuel purchased by such person or used by such distributor for operating or propelling any stationary gas engine or tractor used for agricultural purposes, motor boats, air craft, or for any purpose other than use in a motor vehicle operated or intended to be operated in whole or in part upon any of the public highways, road, or streets of the State of Texas on which motor fuel tax has been paid, either directly

or indirectly, shall be refunded the amount of such taxes so paid by the distributor, exclusive of the deduction for evaporation and loss in the manner and subject to the limitations and conditions described herein. Provided, however, that no greater amount shall be refunded than has been paid into the State Treasury on any motor fuel. The tax actually paid by any distributor or person shall be refunded as provided herein on motor fuel not subject to the tax.

"(b) Any person or distributor desiring to appropriate or sell motor fuel on which a refund of the tax is authorized by this Act shall, before making such appropriation or sale, make application to the Comptroller of Public Accounts, upon forms to be prescribed by the Comptroller and containing such information as the Comptroller may require, for a license to sell such motor fuel; and it shall be unlawful for any person to sell or appropriate any motor fuel upon which a refund of the tax will be made, or is intended to be made, without first having obtained from the Comptroller of the State of Texas a license to sell or appropriate such motor fuel.

"A separate application shall be made to the Comptroller by such person or distributor for each place of business from which refund motor fuel is to be sold or distributed by such person or distributor, and the Comptroller shall issue a separate license for each such place of business. The Comptroller shall examine each application for license received by him, and, if found in due form, and if within the discretion of the Comptroller the applicant is entitled to such license, the same shall be issued. When such application is approved by the Comptroller the applicant for license shall be required to file oath with the Comptroller that he will faithfully perform and comply with the statute making provision for the sale and distribution of motor fuel subject to a refund of the motor fuel taxes. Each license issued hereunder shall remain in full force and effect until the first day of March following its date of issue, and annually on the first day of March each applicant, person or distributor, desiring to sell or appropriate motor fuel upon which a refund of the tax is authorized must obtain from the Comptroller a license, or a renewal of his existing license, to sell such

motor fuel as herein provided. Any license issued hereunder is not transferable unless such transfer is authorized by the Comptroller. Any person who sells motor fuel upon which a refund of the tax may be authorized, or is claimed, under the provisions of this Act, without having obtained a license, as provided for under this Act, shall be guilty of a misdemeanor and upon conviction shall be liable in any sum not to exceed One Thousand (\$1,000.00) Dollars, or by a jail sentence not to exceed six (6) months in jail, or by both such fine and jail sentence.

"Any person licensed under the provisions of this Act shall be required to maintain the records prescribed in Section 8 (b) of House Bill No. 247, Chapter 44, Acts of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, Acts of the Regular Session of the Forty-fourth Legislature, and in addition thereto shall affix his license number to any invoice of exemption he may issue under the provisions of this Act.

"The Comptroller shall prescribe the form of license to be used under this Act, and shall have authority, and it shall be his duty, to revoke and cancel any license issued hereunder when the licensee violates any section of this Act. And, in the event the Comptroller does revoke a license, then all books containing invoices of exemption held by such licensee shall be accounted for and surrendered to the Comptroller.

"No refund of the tax shall be granted on any motor fuel to any person, claimant, firm, corporation, or otherwise, unless such motor fuel has been purchased from or used by a licensed distributor as provided for in this Act; and the Comptroller is hereby prohibited from issuing warrant in payment of any refund of the tax on any motor fuel not purchased from a licensed dealer, except refund on motor fuel exported or lost by accident, or used by distributor for refund purposes.

"(c) Upon each delivery by licensee, or upon each appropriation for use of motor fuel upon which a refund of the tax may be claimed, an invoice of exemption shall be made out at the time of such delivery, or of such appropriation for use, which invoices of exemption shall state: the number of the license of the licensee;

the number of gallons of motor fuel thus delivered or appropriated; the purpose for which such motor fuel will be used, or is intended to be used; the date of purchase, and the date and place of delivery, or appropriation; the name of the purchaser or user; the name of the agent or employee actually making the purchase, or appropriation, if any; the seller and place of business of seller; the manner of delivery. And the said invoice of exemption shall show thereon such other information as the Comptroller may require; and no refund shall be allowed unless the seller or licensee, at the time of any such delivery, or appropriation for use, and not thereafter, executes such an invoice of exemption as provided above.

"And provided, further, that the person selling such motor fuel, or the licensee, in issuing invoices of exemption to the user of such motor fuel, shall make such invoices in duplicate, the duplicate of which shall be delivered to the user of such motor fuel, and the original shall be retained by the licensee for a period of two (2) years, at the place of business designated in the dealer's license, in the same manner and subject to the same examination as required of other records of motor fuel to be kept.

"Each invoice of exemption issued by licensee shall be issued at the time of delivery by the licensee, or his employee, and shall also be signed by the user of such motor fuel, or by his duly authorized agent. The licensee or employee of licensee shall not sign for the purchaser when issuing the invoice of exemption.

"(d) When a claimant purchases or acquires for use motor fuel upon which a refund of the tax may be due, he shall within six (6) months from the date of purchase of motor fuels upon which a refund is claimed, and not thereafter, file with the Comptroller an affidavit, on such forms as may be prescribed by the Comptroller. Said affidavit shall include a statement as to the source or place of purchase or acquisition of such motor fuel used for purposes other than in propelling motor vehicles over the highways of this State; that the information stated in the attached duplicate copy of the invoice of exemption is true and correct, and the manner in which said motor fuel was used, and that no part of said motor fuel was used in pro-

PELLING motor vehicles over the highways of this State. Said affidavit shall be accompanied by the duplicate copy of the invoice of exemption above referred to, and the Comptroller may require other affidavits in such form and time as he may deem advisable, and if he finds that such claims are just, and that the taxes claimed have actually been paid, then he shall within sixty (60) days issue warrant or warrants for the amounts due claimant, but no warrant shall be paid by the State Treasurer after twelve (12) months from the date thereof, and if such warrant is not presented within twelve (12) months from the date thereof, claimant shall forfeit his right to the refund.

"No refund shall be made where motor fuel is used later than six (6) months from the date of purchase, or appropriation, and no refund shall ever be made where it appears from the invoice, or from the affidavits, or other evidence submitted, that the sale or purchase was made more than six (6) months prior to the date of filing of the application for refund. The date of filing shall be the day such claim is actually received in the Comptroller's office.

"No refund of the tax shall be allowed on motor fuel used in any registered or licensed motor vehicle or in any motor vehicle operated or intended to be operated in whole or in part upon any of the highways, roads and streets of this State.

"(e) When the Comptroller has issued license to any person desiring to sell or distribute motor fuel upon which a refund of the tax is authorized, or upon which a claim is to be filed for a refund of the tax, the Comptroller shall issue to such licensee a book, or books, of blank invoices of exemption, which invoices shall be serially numbered, and an original and a duplicate of each invoice shall be made. The Comptroller shall keep accurate records of the number of books of invoices of exemption issued and furnished to each licensee, and the licensee shall, at all times, account for all such books of invoices of exemption so received by him. Any invoices of exemption mutilated or unusable must be returned to the Comptroller by the licensee for credit to his account, and any unissued invoice of exemption lost or destroyed must be reported to the Comptroller by such licensee. The Comptroller shall not issue any addi-

tional books of invoices of exemption to a licensee until such licensee has made proper accounting for each invoice of exemption theretofore issued him. The books of invoices of exemption issued to a licensee are not transferable or assignable by such licensee unless such transfer or assignment is authorized by the Comptroller; and failure by such licensee to make proper accounting for all invoices of exemption issued to him by the Comptroller shall be cause for the revocation of his license.

"If the duplicate invoice of exemption retained by purchaser is lost, or destroyed, by purchaser, such purchaser may make application to the Comptroller for forms to be used in lieu of lost duplicate.

"The invoices of exemption required by this Act shall be furnished, free of cost, by the Comptroller to the licensee. And no forms of invoice of exemption shall be used by the dealer or user of refund motor fuel other than those issued and furnished by the Comptroller.

"(f) All filing fees shall be paid into the State Treasury and be paid out on vouchers and warrants in such manner as may be prescribed by law.

"(g) All the moneys paid into the Treasury under the provisions of this Act, except the filing fees provided herein, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on sale of motor fuel during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller, and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the

remainder of such as provided by law. If claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, of 1925, but in no event shall a duplicate warrant be issued after one (1) year from date of original warrant.

"(h) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand (\$200,000.00) Dollars or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the amount deducted originally by the distributor shall be deducted in computing the refund. The Comptroller shall deduct One (\$1.00) Dollar from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Act, as well as for the payment of expenses in furnishing the form of invoice of exemption provided for herein, and the same is hereby appropriated for such purpose."

Sec. 2. That Section 7 of House Bill No. 247, Chapter 44, Acts of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, Acts of the Forty-fourth Legislature, Regular Session, be amended so as to hereafter read as follows:

"Section 7. All taxes, fines, penalties and interest due by any distributor to the State shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any distributor, devoted to or used in his business as a distributor, which property shall include refinery, blending plants, storage tanks, ware-houses, office buildings and equipment, tank trucks or other motor vehicles, stocks on hand of every kind and character whatsoever used or usable in such busi-

ness, including crude oil or other materials for the manufacture, refining, blending or compounding of motor fuels and the refined products therefrom and the proceeds from the sale of such materials and refined products, and any other property of every kind and character whatsoever and wherever situated devoted to such use, and each tract of land on which such refinery, blending plant, tanks or other property is located, or which is used in carrying on such business.

"If any distributor shall fail to remit proper taxes due, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted, the distributor shall pay the reasonable expenses incurred in such investigation and audit as additional penalty. Provided, however, that all funds paid to the auditors of the Comptroller as expenses incurred in making audits, shall be placed in a special fund in the State Treasury, which shall be used until exhausted for making other audits, and said sums are hereby appropriated for that purpose. Provided, that nothing herein shall prevent the Comptroller, when said fund is exhausted, from using other funds available for that purpose.

"When it shall appear that a distributor or taxpayer to whom the provisions of this Act shall apply has erroneously reported and paid more taxes than were due during any tax-paying period, either on account of a mistake of fact or law, it shall be the duty of the State Comptroller to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid."

Sec. 3. That Section 12 of House Bill No. 247, Chapter 44, Acts of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, Acts of the Forty-fourth Legislature, Regular Session, be amended so as to hereafter read as follows:

"Section 12. (a) Every common carrier in this State having the custody of books or records showing the transportation of motor fuel both interstate and intrastate shall give and permit the Comptroller or his duly authorized representative free access to such books and records.

"(b) All persons operating trucks, pipelines and other conveyances as

common carriers in the transportation of motor fuel into and from this State, exclusive of railroads, shall render a sworn report to the Comptroller not later than the 20th of each month, showing a description of the truck or other conveyances in which the same was transported on such forms as shall be prescribed by the Comptroller, which was transported by such persons during the preceding month. There shall also be included in said report full data concerning the diversion of shipments enroute as amount to a change from interstate to intrastate and intrastate to interstate commerce. Such report shall show the point of origin and destination, the number of gallons shipped, the date, the consignee and the consignor and the kind of motor fuel. All persons operating railroads as common carriers in the transportation of motor fuel into and from this State, shall, as and when requested by the Comptroller, and in such form as may be prescribed, render, not later than the 20th of the following month, a sworn report for the preceding month, or for such other period or periods as may be requested, showing a description of the tank car or other conveyance in which the same was transported and shall render such other information concerning diversion of or change of shipments enroute from interstate to intrastate commerce or intrastate to interstate commerce, as may be required by the Comptroller. Provided that no report be made by any such persons transporting motor fuel in quantities of less than twenty (20) gallons.

"(c) All carriers, excepting railroads and pipelines, shall carry manifest issued by distributors or dealers in compliance with Section 8 (b) of House Bill 247, Chapter 44, General Laws of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter 240, General Laws of the Regular Session of the Forty-fourth Legislature. All records provided for in this Act shall be kept by said carrier in Texas for a period of two (2) years, and shall at all times be subject to the inspection of the Comptroller or Attorney General or their authorized representatives.

"In order to enforce the provisions of this Act, the Comptroller, his Tax Supervisors, or other authorized representatives, any Highway Patrolman, Sheriff, Constable and his depu-

ties, and all other peace officers are empowered to stop any motor vehicle which might appear to be transporting motor fuel or other derivatives of crude petroleum or its products as cargo for the purpose of examining the manifest required to be carried, for examination of the commodity in transit, to take samples of the cargo, and for such other investigations as could reasonably be made to determine whether the cargo was motor fuel or other derivatives of crude petroleum or its products, and whether manifest indicated that the State tax was a part of the consideration involved in the sale or distribution of any motor fuel carried. If, upon said examination, it is found that the driver of any such motor vehicle transporting motor fuel does not possess or refuses to exhibit a manifest required herein, or if said manifest carried is false or incomplete said authorized officers shall impound and take possession of the said motor vehicle and its contents, and unless proof is produced, within seventy-two (72) hours from the beginning of such impoundment, that the motor fuel has been sold with the State tax as a part of the consideration therefor, the Sheriff or the Constable of the County in which said impoundment is made shall proceed to sell the said motor fuel in the manner provided by law for the sale of personal property under execution in this State. Upon said sale the Sheriff or Constable shall first pay to the Comptroller or his authorized representative the State tax due upon said motor fuel. The Sheriff or Constable shall receive such fees as are now allowed by law in the sale of personal property under execution in this State for the services rendered by him. The balance of said sum shall be turned over to the rightful owner of said motor fuel after deducting the reasonable expenses incurred in impounding and selling the same. Provided in the event a distributor or dealer is transporting motor fuel from his own storage under circumstances in which no sale is involved, the manifest of said motor fuel shall be exhibited showing such fact.

"(d) Any person violating any provision of this section shall be liable for the penalty described in Section 9, House Bill No. 247, Chapter 44, General Laws of the Regular Session of the Forty-third Legislature, as amended by House Bill No. 749, Chapter

240, General Laws of the Regular Session of the Forty-fourth Legislature. Provided no report or information is required herein, the requiring of which would be a violation of the laws and Constitution of the United States or Texas, or an unlawful burden on interstate or foreign commerce."

Sec. 4. This Act, upon becoming a law, shall take effect and become operative from and after September 1, 1939.

Sec. 5. If any section, sub-section, sentence, clause, phrase, or word of this Act shall be construed and held by the Courts to be unconstitutional or invalid such holding shall not apply to any other part of the Act, and the same shall remain in force and effect as though the Courts had not passed on the validity of any section, sub-section, sentence, clause, phrase, or word of the Act.

Sec. 6. The fact that the Act sought to be amended hereby contains certain defects and omissions which seriously hinder and impair the effective administration and enforcement of said Act and the collection of taxes levied thereby, which omissions and defects are sought to be corrected hereby, creates an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

House Bill 178 on Second Reading

Senator Van Zandt moved that the regular order of business be suspended to permit consideration of H. B. No. 178 at this time.

The motion prevailed by the following vote:

Yeas—21

Aikin	Redditt
Burns	Roberts
Graves	Shivers
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Metcalf	Van Zandt
Moffett	Weinert
Nelson	

Nays—8

Beck	Martin
Collie	Moore
Cotten	Pace
Isbell	Winfield

Absent

Small

Absent—Excused

Brownlee

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 178, A bill to be entitled "An Act for the purpose of releasing the interest and penalties on all delinquent ad valorem and poll taxes that were delinquent on or before July 1, 1939, due to the State, any county, common school district, road district, levee improvement district, water improvement district and water control and improvement district, irrigation district and other defined subdivisions of the State, provided same are paid within a certain period, etc., and declaring an emergency."

The bill was read second time.

Senator Winfield offered the following amendment to the bill:

Amend H. B. No. 178 so as to exempt judgments secured against delinquent tax payers prior to the passage of this Act; this provision to be added at end of Section 2.

Senator Aikin moved to table the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

Yeas—9

Aikin	Shivers
Burns	Spears
Hardin	Stone
Isbell	of Galveston
Redditt	Weinert

Nays—18

Beck	Moore
Collie	Nelson
Cotten	Pace
Graves	Roberts
Hill	Small
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Winfield
Metcalfe	

Present—Not Voting

Moffett	Van Zandt
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Absent

Head

Absent—Excused

Brownlee

Question recurring on the amendment, it was adopted.

Senator Collie offered the following amendment to the bill:

Amend H. B. No. 178 by striking out the words "one-third of" in line 10, page 2, and by striking out all of the remainder of the sentence after the words "before November 1, 1939," in line 11, page 2.

Senator Shivers moved the previous question on the amendment and the passage of the bill to third reading, and the motion was duly seconded.

The main question was ordered by the following vote:

Yeas—18

Burns	Shivers
Graves	Small
Hardin	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Stone
Moffett	of Washington
Nelson	Sulak
Redditt	Weinert
Roberts	Winfield

Nays—7

Aikin	Lemens
Collie	Moore
Cotten	Pace
Hill	

Present—Not Voting

Van Zandt

Absent

Beck	Martin
Head	Metcalfe

Absent—Excused

Brownlee

(Senator Head in the Chair.)

Question first recurring on the amendment, yeas and nays were demanded.

(President in the Chair.)

The amendment was adopted by the following vote:

Yeas—19

Collie	Pace
Cotten	Roberts
Head	Spears
Hill	Stone
Isbell	of Galveston
Lanning	Stone
Lemens	of Washington
Martin	Sulak
Metcalf	Weinert
Moffett	Winfield
Nelson	

Nays—10

Aikin	Kelley
Beck	Moore
Burns	Redditt
Graves	Shivers
Hardin	Van Zandt

Absent

Small

Absent—Excused

Brownlee

Question next recurring on the passage of the bill to third reading, yeas and nays were demanded.

The bill was passed to third reading by the following vote:

Yeas—18

Aikin	Moffett
Beck	Nelson
Burns	Redditt
Hardin	Shivers
Head	Spears
Hill	Stone
Kelley	of Galveston
Lanning	Van Zandt
Lemens	Weinert
Metcalf	

Nays—11

Collie	Pace
Cotten	Roberts
Graves	Stone
Isbell	of Washington
Martin	Sulak
Moore	Winfield

Absent

Small

Absent—Excused

Brownlee

Motion to Place House Bill 178 on Third Reading

Senator Van Zandt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 178 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—19

Aikin	Moffett
Burns	Nelson
Graves	Redditt
Hardin	Shivers
Head	Spears
Hill	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert

Nays—9

Beck	Pace
Collie	Roberts
Cotten	Stone
Metcalf	of Washington
Moore	Winfield

Absent

Isbell

Small

Absent—Excused

Brownlee

House Bill 1064 on Second Reading

On motion of Senator Redditt and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1064 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1064, A bill to be entitled "An Act authorizing cities having a population of two hundred and eighty-five thousand (285,000) inhabitants, or more, according to the last preceding or any future Federal Census, to extend by ordinance their boundary so as to include in such cities all publicly owned or publicly operated airports, flying fields, and landing fields lying within a distance of ten (10) miles in air line from the ordinary limits of such cities, and in addition thereto land lying within a distance of three thousand (3,000) feet

of the exterior limits of such airports, flying fields, and landing fields; providing for intervening land to be included; authorizing such cities to pass ordinances, criminal and otherwise, under the general police powers to promote and protect the safe and efficient operations of said airports, flying fields, and landing fields and particularly the power to limit the height of any building or structure within three thousand (3,000) feet of the exterior limits thereof; authorizing the policing of such territory; prohibiting taxing of property in said territory; declaring this Act to be severable, and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 1064 on Third Reading

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1064 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Cotten
Beck	Graves
Burns	Hardin
Collie	Head

Hill	Roberts
Isbell	Shivers
Kelley	Small
Lanning	Spears
Lemens	Stone
Martin	of Galveston
Metcalf	Stone
Moffett	of Washington
Moore	Sulak
Nelson	Van Zandt
Pace	Weinert
Redditt	Winfield

Absent—Excused

Brownlee

House Bill 546 on Second Reading

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 546 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 546, A bill to be entitled "An Act amending Chapter 57, Local and Special Laws of the State of Texas, passed at the Third Called Session of the Thirty-sixth Legislature, by changing the name of Blythe County Line Independent School District in Gaines, Terry and Yoakum Counties to Seagraves Independent School District; redefining the boundaries of said school district; providing that all outstanding bonded and other indebtedness of Blythe County Line Independent School District shall be validated and made a valid obligation against the Seagraves Independent School District; providing that title to all public free school property of said Blythe County Line Independent School District shall vest in said Seagraves Independent School District; providing that in all other respects the rights, powers, duties and obligations imposed upon Blythe County Line Independent School District and its trustees shall not be affected in any manner, and declaring an emergency.

The bill was read second time and was passed to third reading.

House Bill 546 on Third Reading

Senator Nelson moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 546 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

House Bill 1136 on Second Reading

On motion of Senator Stone of Galveston and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1136 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1136, A bill to be entitled "An Act amending Article 2844 of the Revised Civil Statutes of 1925, [relative to changing supplementary readers used as text books] and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 1136 on Third Reading

Senator Stone of Galveston moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1136 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Brownlee

House Bill 1009 on Second Reading

Senator Moffett moved that the regular order of business be suspended to permit consideration of H. B. No. 1009 at this time.

The motion prevailed by the following vote:

Yeas—22

Aikin	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lemens	of Washington
Metcalfe	Sulak
Moffett	Van Zandt
Nelson	Weinert
Pace	Winfield

Nays—6

Beck	Head
Burns	Lanning
Collie	Martin

Absent

Moore	Spears
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Absent—Excused

Brownlee

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1009, A bill to be entitled "An Act amending Article 600a, Section 36, Revised Civil Statutes of 1925, as amended, Acts, 1937, Forty-fifth Legislature, Senate Bill No. 142, Section 2, so as to provide that in no event shall the expenditure for the administration of this Act exceed Sixty-five Thousand (\$65,000.00) Dollars for any one fiscal year, and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 1009 on Third Reading

Senator Moffett moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1009 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

Aikin	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Isbell	Spears
Kelley	Stone
Lanning	of Galveston
Martin	Stone
Metcalfe	of Washington
Moffett	Sulak
Moore	Van Zandt
Nelson	Weinert
Pace	Winfield

Nays—5

Beck	Head
Burns	Hill
Collie	

Absent

Lemens

Absent—Excused

Brownlee

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—23

Aikin	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Stone
Metcalfe	of Washington
Moffett	Sulak
Moore	Van Zandt
Nelson	Weinert
Pace	Winfield
Redditt	

Nays—6

Beck	Head
Burns	Hill
Collie	Martin

Absent**Lemens****Absent—Excused****Brownlee****Messages from the Governor**

A messenger from the Governor was announced by the Doorkeeper, and recognized by the President, to present the following messages:

Austin, Texas,
June 20, 1939.

To the Members of the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To be Members of the State Board of Health (Six-year term beginning June 15, 1939):

Dr. L. O. Godley of Fort Worth, Tarrant County.

Patrick J. Cavanaugh of San Antonio, Bexar County (To fill unexpired term of R. A. Thompson, resigned,—term ending June 15, 1943).

H. W. Van Hovenberg of Mount Pleasant, Titus County.

Respectfully submitted,

W. LEE O'DANIEL,
Governor of Texas.

Austin, Texas,
June 20, 1939.

To the Members of the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To be Members of the Texas State Parks Board (for six-year term beginning May 15, 1939):

H. G. Webster of Huntsville, Walker County;

Jake D. Sandefer, Jr., of Breckenridge, Stephens County.

Respectfully submitted,

W. LEE O'DANIEL,
Governor of Texas.

The messages were read and referred to the Committee on Nominations of the Governor.

Recess

On motion of Senator Graves, the Senate, at 12:00 o'clock m., took recess to 2:00 o'clock p. m. today.

Afternoon Session

The Senate met at 2:00 o'clock p. m. and was called to order by President Pro Tempore Moore.

Senate Concurrent Resolution 69

Senator Winfield, by unanimous consent, offered at this time the following resolution:

Be it Resolved by the Senate of Texas, the House of Representatives concurring, that the joint rules be suspended to the extent necessary for the House to consider Senate Bill No. 458.

The resolution was read; and on motion of Senator Winfield and by unanimous consent, it was considered immediately.

The resolution was adopted.

Senate Concurrent Resolution 70

Senator Hill, by unanimous consent, offered at this time the following resolution:

Be it Resolved by the Senate of the State of Texas, the House concurring, That all joint rules prohibiting the consideration of bills during the last 24 hours be and the same are hereby suspended insofar as the same may apply to: H. B. No. 878, H. B. No. 1096, H. B. No. 419, H. B. No. 792, H. B. No. 684, H. B. No. 380, H. B. No. 1141, H. B. No. 1114, H. B. No. 1019, S. B. No. 493, H. B. No. 989, and H. B. No. 950.

The resolution was read; and by unanimous consent, it was considered immediately and was adopted.

(President in the Chair.)

Report of Conference Committee on Senate Bill 224

Senator Weinert called for the consideration at this time of the report of the conference committee on S. B. No. 224, the tax remission bill, which report was submitted on yesterday, and printed in the Journal of that day.

The President laid the report before the Senate.

Question—Shall the report be adopted?

Senator Cotten submitted the following motion in writing:

Mr. President: I move that the report of the conference committee on Senate Bill 224 be rejected and the committee be discharged.

Senator Weinert moved the previous question on the motion and the adoption of the report, and the motion for the previous question was duly seconded.

Senator Shivers called for a division of the question.

The main question was ordered on the motion of Senator Cotten by the following vote:

Yeas—19

Beck	Metcalf
Brownlee	Moffett
Burns	Nelson
Collie	Redditt
Graves	Small
Head	Spears
Hill	Sulak
Isbell	Weinert
Kelley	Winfield
Lanning	

Nays—9

Aikin	Stone
Cotten	of Galveston
Hardin	Stone
Lemens	of Washington
Roberts	Van Zandt
Shivers	

Absent

Martin	Pace
Moore	

The main question then was ordered on the adoption of the report by the following vote:

Yeas—18

Beck	Lanning
Brownlee	Metcalf
Burns	Nelson
Collie	Small
Graves	Spears
Head	Sulak
Hill	Van Zandt
Isbell	Weinert
Kelley	Winfield

Nays—10

Aikin	Roberts
Cotten	Shivers
Hardin	Stone
Lemens	of Galveston
Moffett	Stone
Redditt	of Washington

Present—Not Voting

Martin	Pace
Moore	

Executive Session

At 3:00 o'clock p. m., the President announced the hour set for an executive session of the Senate had arrived.

Accordingly, the floor and galleries were cleared of those not entitled to attend the executive session and the doors leading from the Senate Chamber were closed.

At the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk the following reports had been adopted:

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Chairman of the State Commission for the Blind (term ending January 1, 1941):

James A. Boddeker of Galveston, Galveston County.

To be Members of the State Commission for the Blind:

(Term ending January 1, 1943):

B. S. Payne of Carthage, Panola County;

(Term ending January 1, 1945):

W. H. Earl of Waco, McLennan County.

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Members of the Board of Directors of the San Antonio River Canal and Conservancy District (six-year term beginning May 5, 1939):

J. C. Merchant of Floresville, Wilson County;

Reagan Houston of San Antonio, Bexar County;

B. B. McGimsey of San Antonio, Bexar County.

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Members of the Texas State Parks Board (for six-year term beginning May 15, 1939):

H. G. Webster of Huntsville, Walker County;

Jake D. Sandefer, Jr., of Breckenridge, Stephens County.

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Members of the State Board of Health (Six-year term beginning June 15, 1939):

Dr. L. O. Godley of Fort Worth, Tarrant County.

Patrick J. Cavanaugh of San Antonio, Bexar County (To fill unexpired term of R. A. Thompson, resigned,—term ending June 15, 1943).

H. W. Van Hovenberg of Mount Pleasant, Titus County.

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

The President called the Senate to order as in legislative session at 3:30 o'clock p. m.

Bills Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills:

S. B. No. 261, "An Act making it unlawful to kill quail in Gaines, Terry and Yoakum Counties, Texas; providing the Act shall be in force for a period of five (5) years; repealing all laws in conflict; providing a penalty for the violation of this Act, and declaring an emergency."

S. B. No. 433, "An Act to enable common school districts in each county of Texas having a population of not less than eleven thousand twenty-one (11,021) nor more than eleven thousand fifty (11,050) according to the latest Federal Census, to vote bonds, levy taxes for the same, for the purpose of purchasing not more than one school bus, or one school bus body, or one school bus chassis; repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

Report of Conference Committee on Senate Bill 224 Adopted

The Senate resumed consideration of pending business, same being the report of the conference committee on S. B. No. 224, with motion by Senator Cotten to reject the report pending.

Question—Shall the motion to reject the report prevail?

Senator Cotten withdrew the motion.

Question recurring on the adoption of the report, yeas and nays were demanded.

The report was adopted by the following vote:

Yeas—21

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Redditt
Collie	Spears
Graves	Stone
Hill	of Galveston
Kelley	Sulak
Lanning	Van Zandt
Lemens	Weinert
Metcalfe	Winfield

Nays—8

Cotten	Roberts
Head	Shivers
Isbell	Small
Martin	Stone
Pace	of Washington

Absent

Hardin

Report of Conference Committee on House Bill 971 Adopted

Senator Beck called for the consideration at this time of the report of the conference committee on H. B. No. 971, which report was previously submitted on today.

The President laid the report before the Senate, and it was adopted by the following vote:

Yeas—28

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Graves	Shivers
Head	Small
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent

Cotten	Spears
Hardin	

Senate Concurrent Resolution 71

Senator Collie, by unanimous consent, offered the following resolution at this time:

Whereas, It being the desire of the Senate of the State of Texas to give consideration to the final passage of House Bill No. 83; and

Whereas, under the joint rules, Section 9, such authority is denied during the last twenty-four (24) hours of the session; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That Section 9 of the joint rules, and all other rules be and they are hereby suspended so that House Bill No. 83 may be further considered and finally passed.

The resolution was read; and on motion of Senator Collie and by unanimous consent, it was considered immediately.

Question—Shall the resolution be adopted?

Yeas and nays were demanded, and the resolution was adopted by the following vote:

Yeas—21

Brownlee	Pace
Burns	Roberts
Collie	Shivers
Graves	Small
Head	Spears
Kelley	Stone
Lanning	of Galveston
Lemens	Stone
Martin	of Washington
Metcalf	Van Zandt
Moffett	Winfield
Nelson	

Nays—9

Aikin	Isbell
Cotten	Moore
Hardin	Sulak
Hill	Weinert

Absent

Beck	Redditt
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Report of Conference Committee on Senate Bill 490 Adopted

Senator Winfield called for the consideration at this time of the report of the conference committee on S. B. No. 490, the report having been previously submitted on today.

The President laid the report before the Senate, and it was adopted by the following vote:

Yeas—23

Aikin	Moffett
Brownlee	Moore
Collie	Nelson
Cotten	Pace
Graves	Shivers
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Van Zandt
Martin	Winfield
Metcalf	

Nays—4

Burns Small
Roberts Weinert

Absent

Beck Redditt
Isbell Sulak

Report of Standing Committee

Senator Spears, by unanimous consent, submitted at this time the following report:

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, the Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 1039, A bill to be entitled "An Act providing that the date for the execution of a person sentenced to death shall not be fixed so as to fall upon a Friday, and providing that in the event the date of the execution is fixed so as to fall upon a Friday, the execution of the sentence be postponed to the following day; providing if any execution be set on Sunday the same shall be postponed until the following Tuesday; and declaring an emergency,"

Have had the same under consideration and we wish to report it back to the Senate with the recommendation that it do pass and be not printed.

SPEARS, Chairman.

Report of Conference Committee on Senate Bill 179 Adopted

Senator Metcalfe called for the consideration at this time of the report of the conference committee on S. B. No. 179, the report having been previously submitted on today.

The President laid the report before the Senate, and it was adopted by the following vote:

Yeas—25

Brownlee	Lemens
Collie	Martin
Cotten	Metcalfe
Graves	Moffett
Hardin	Moore
Head	Nelson
Hill	Pace
Isbell	Roberts
Lanning	Shivers

Small Sulak
Spears Van Zandt
Stone Weinert
of Galveston Winfield
Stone
of Washington

Yeas—2

Aikin Burns

Absent

Beck Redditt
Kelley

Report of Conference Committee on House Bill 17

Senator Small submitted at this time the following report of the conference committee on H. B. No. 17:

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 17, have had the same under consideration and we recommend to the Senate and to the House of Representatives that such bill pass in the form attached hereto.

Respectfully submitted,

SMALL,
GRAVES,
SHIVERS,

On the part of the Senate.

BOYER,
DONAGHEY,
HARDEMAN,
BRADFORD,
PINER,

On the part of the House.

H. B. No. 17.

A BILL

TO BE ENTITLED

An Act providing a title for the Act; providing the definition of certain words, terms, and phrases; providing certain exemptions; providing any one act prohibited herein shall be a violation hereof; providing for the administration of the Act; providing certain procedure for securing real estate dealers' and real estate salesmen's licenses and for

certain information to be supplied by applicant; and requiring the recommendation of the applicant by three (3) real estate owners; providing a partnership, association, or corporation licenses under the Act can designate one of its members or officers to be licensed as a real estate dealer without additional charge and imposing certain restrictions; providing any member of partnership or officer of association or corporation not designated required to be licensed before acting as a real estate dealer and imposing certain restrictions; providing for the licensing of non-resident real estate dealers and salesmen and making certain requirements discretionary if non-resident is licensed under the laws of another State; making provision for requisition of information of applicant and vesting Administrator of the Securities Division of the office of the Secretary of State with power to make rules and regulation connected with application for a license; requiring issuance of license if certain conditions are satisfied; and providing for issuance of temporary license under certain conditions; and providing a pocket card for each licensee; prescribing its form; and providing licensee shall maintain a definite place of business which may be his home and providing for display of dealer's and his salesman's license in dealer's place of business, and providing that the dealer may remove location of business within the county of such dealer's residence without further application; providing that duplicate licenses shall be displayed in all branch offices and providing licensee can transact business from only one office unless notice given within ten (10) days of change of location; providing procedure for dealer and salesman to follow when salesman changes employer; providing that not more than one license can be issued to a salesman for the same period; and providing for issuance of new license when salesman transfers and payment of transfer fee; providing for a hearing if applicant for a license is refused; providing for investigation of certain dealers and salesmen; and giving Administrator of the Securities Division of the office

of the Secretary of State power to revoke or refuse to renew license of any dealer or salesman guilty of certain acts; and providing that revocation of license or refusal to renew shall not relieve person or company from civil or criminal liability; providing for hearing before license suspended or revoked; authorizing certain procedure and making provision for appeal to the Courts; providing no action can be maintained in Courts to collect commissions for performing certain acts unless one proves he is licensed dealer or salesman; conferring on the Administrator of the Securities Division of the office of the Secretary of State, or one duly authorized, the authority to require by subpoena the attendance of witnesses, taking of depositions, and the production of books, accounts, records, papers, and correspondence relative to matters which the Administrator of the Securities Division of the office of the Secretary of State may investigate and conferring upon Administrator of the Securities Division of the office of the Secretary of State and one duly authorized the authority to issue subpoenas, administer oaths, and affirmations, examine witnesses, and receive evidence; and providing for the aid of the Courts if necessary; providing for punishment for contempt; and providing for fees of witnesses, other fees, costs, and expenses; providing for the time and method of appeal to the Courts by person aggrieved under this Act and proper procedure after such appeal; providing that certain fees are to be charged and collected by the Administrator of the Securities Division of the office of the Secretary of State; providing for expiration date of licenses granted; making provisions for the deposit of fees collected under terms of this Act; providing for the payment of salaries of employees and expenses of administration and for disbursement of funds collected under this Act; providing that certified copies of all instruments and documents filed in the office of the Administrator of the Securities Division of the office of the Secretary of State shall be admitted as evidence; providing that Courts may require the production of original instruments and documents; and

providing that in any proceedings based on the provisions of this Act, a certificate of the Administrator of the Securities Division of the office of the Secretary of State under the seal of the State shall constitute prima facie evidence of compliance or noncompliance with the terms of this Act; making it unlawful to pay commission to one not licensed hereunder and providing salesman cannot accept compensation from one not licensed; providing a penalty for fraudulent action by any unlicensed person or any other person; providing when law not applicable; providing that in the event any provision of this Act is declared void or unconstitutional that remaining provisions shall remain in full force and effect; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. This act shall be known and may be cited as "The Real Estate Dealers License Act."

Sec. 2. The following terms shall, unless the context otherwise indicates, have the following meanings:

(a) (1) The term "Real Estate Dealer" shall include every person or company, other than a salesman, and licensed and registered attorneys, who for another or others for compensation or other valuable consideration, or who with the intention of in the expectation or upon the promise of receiving or collecting compensation or other valuable consideration, lists for sale, sells, exchanges, buys, or rents, or offers, or attempts, or agrees to negotiate a sale, exchange, purchase, or rental of an estate or interest in real estate, or collects, or offers, or attempts, or agrees to collect rent for the use of real estate, or negotiates, or offers, or attempts, or agrees to negotiate a loan, secured or to be secured by mortgage or other incumbrance upon or transfer of real estate; or auctions, or offers, or attempts, or agrees to auction any real estate, or appraises, or offers, or attempts, or agrees to appraise any real estate; or who advertises, or holds itself, himself, or themselves out as engaged in the business of selling, exchanging, buying, renting, or leasing real estate, or assists or directs in the procuring of prospects, or the negotiation or closing of any transaction which does or is calculated to result in the sale,

exchange, leasing, or renting of any real estate, or who buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate or in the improvements thereon.

(2) The term "Real Estate Dealer" shall also include any person or company employed by or on behalf of the owner or owners of lots or other parcels of real estate at a stated salary, or upon a commission, or upon a salary and commission basis, or otherwise, to sell such real estate in any parts thereof, in lots or other parcels, and who shall sell or exchange, or offers, or attempts, or agrees to negotiate the sale or exchange of any such lot or parcel of real estate; provided, however, if the owner of lots or other parcels is engaged in the business of buying, selling, exchanging, leasing, renting of property and holding himself out as a full or part time dealer in real estate, then such person employed by said owner may be licensed as a salesman of said owner if said owner has been licensed as a dealer in real estate.

(3) The term "Real Estate Dealer" shall also include any person or company engaged in the business of buying, selling, exchanging, leasing, renting of property on his or its own account and holding himself or itself out as a full or part time dealer in real estate.

(b) The term "Real Estate Salesman" shall mean and include any person or company employed or engaged by or on behalf of a licensed real estate dealer to do or deal in any act, acts, or transactions set out and comprehended by the definition of a "Real Estate Dealer" in Section 2, Subsection (a) of this Act.

(c) If the sense requires it, words in the present tense include the future tense; in the masculine gender, include the feminine or neuter gender; in the singular number, include the plural number; in plural number, include the singular number; "and" may be read "or"; and "or" may be read "and."

Sec. 3. The provisions of this Act shall not apply to, and the terms "Real Estate Dealer" and "Real Estate Salesman," as above defined, shall not include:

(a) Any person or company who, as owner or lessor, shall perform any of the acts set out in Section 2, Subdivision (a) with reference to property owned or leased by them,

or to the regular employees thereof with reference to the property owned or leased by such person or company where such acts are performed in the regular course of, or as in incident to, the management of such property and the investment therein, unless such person or company is engaged in the business of buying, selling, exchanging, leasing, or renting of property and holding himself or itself out as a full or part time dealer in real estate.

(b) Persons acting as an attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate; services rendered by an attorney at law receiver, trustee in bankruptcy, administrator, or executor, or any person doing any of the acts specified in Section 2, Subdivision (a) of this Act under order of any Court; a trustee acting under a trust agreement, deed of trust, or will, or the regular salaried employees thereof.

(c) Any person, partnership, or corporation who has secured a license under Texas Securities' Act, House Bill No. 521, Regular Session, Forty-fourth Legislature.

Sec. 4. Any one act set out in Section 2, Subdivision (a) of this Act when performed for another or others for compensation or valuable consideration or who with the intention or in the expectation or upon the promise of receiving or collecting compensation shall constitute a person or company performing, offering or attempting to perform such act or acts, a real estate dealer or a real estate salesman within the meaning of this Act.

Sec. 5. The administration of the provisions of this Act shall be vested in the Securities Division of the office of the Secretary of State.

(b) The Secretary of State is hereby empowered to employ an Executive Secretary; the salary of such Executive Secretary shall not exceed the sum of Two Hundred (\$200.00) per month.

(c) The Administrator of the Securities Division is hereby empowered to examine witnesses and administer oaths, and it shall be his duty to investigate persons doing business in real estate in this State to ascertain whether they are violating any of the provisions of this Act and to keep

such records and minutes as shall be necessary to an orderly dispatch of business.

Sec. 6. Any applicant desiring to act as a real estate dealer in this State shall file with the Administrator of the Securities Division of the office of the Secretary of State an application for a license therefor. The application shall be in such form as the Administrator of the Securities Division of the office of the Secretary of State may prescribe, and shall set forth:

(1) The name and address of the applicant. If the applicant shall be a partnership or association, the name of each member thereof; if it is a corporation, the name of each director thereof.

(2) The name under which the business shall be conducted.

(3) The place or places, including the street and number, town, village, or city and county where the business is to be conducted.

(4) The business or occupation engaged in by the applicant for a period of three (3) years immediately preceding the date of the application. If an applicant be a partnership or association, by each member thereof; if a corporation by each officer thereof.

(5) The time and place and experience of the applicant in the real estate business as a dealer or salesman. If an applicant be a partnership or association, by each member thereof; or if a corporation, by each officer thereof.

(6) Whether the applicant has ever been convicted or is under indictment for embezzlement, obtaining money under false pretense, larceny, extortion, conspiracy to defraud, or other like offense or offenses. If an applicant be a partnership or association, whether any member thereof has been convicted or indicted; if the applicant be a corporation, whether any officer or director has been convicted or indicted.

(7) Whether the applicant has been refused a real estate dealer's or salesman's license, or any other occupational or professional license in any other State; or whether his license as a dealer or salesman or any other occupational or professional license has been suspended or revoked in any other State. If the applicant be a partnership or association, whether any member has had his license as a

dealer or salesman suspended or revoked or refused in any other State. If the applicant be a corporation, whether any officer or director thereof has had his license as a dealer or salesman, or any other occupational or professional license, suspended, or revoked or refused in any other State.

(8) If the applicant is a partnership, association, or corporation, the name of the designated member or officer thereof who is to receive his license by virtue of the issuing of a license to the partnership, association, or corporation as is provided for in Section 5, Subdivision (d) of this Act.

(9) If the applicant is a member of a partnership, association, or corporation, or an officer of a corporation, the name and office address of the partnership, or association or corporation of which said applicant is a member or officer.

(10) Such application for a dealer's license shall be made by applicant. If such application is made by a partnership or association, it shall be filed by two (2) members thereof. If made by a corporation, it shall be filed by the President and secretary thereof.

(b) Such application shall be accompanied by the recommendations of at least three (3) citizens, not related to the applicant, who have owned real estate for a period of three (3) years or more in the county in which the applicant resides or intends to reside or establish his place of business, and who have known applicant for a period of three (3) years or more, which recommendation shall be under oath, and shall certify that the applicant has a reputation for honesty, truthfulness, fair dealing, and competency, and recommending that license be granted to the applicant.

(c) If the applicant cannot procure such recommendations for the reason that he has not resided in the county for three (3) years he may furnish three (3) recommendations from any person where the applicant may have resided for three (3) years prior to the filing of his application.

(d) Every partnership and association in its application shall designate and appoint one of its members, and every corporation in its application shall designate and appoint one

of its members, and every corporation in its application shall designate and appoint one of its officers to submit an application for a dealer's license. The application of the said partnership, association, or corporation and the application of said member or officer so designated shall be filed with the Administrator of the Securities Division of the office of the Secretary of State together. Upon compliance with all requirements of law by the partnership, association, or corporation, as well as by said designated member or officer, the Administrator of the Securities Division of the office of the Secretary of State shall issue a dealer's license to said partnership, association, or corporation, which shall bear the name of such member or officer, and thereupon the member or officer so designated shall, without payment of any further fee, be entitled to perform all the acts of a real estate dealer contemplated by the provisions of this Act; provided, however, said license shall entitle such member or officer so designated to act as a real estate dealer only as officer or agent of said partnership, association, or corporation and not in his own behalf; and provided further that if in any case the person so designated shall be refused a license by the Administrator of the Securities Division of the office of the Secretary of State, or in case such person ceases to be connected with such partnership, association, said partnership, association, or corporation shall be entitled to designate another person to qualify and act as in the first instance.

(e) Each and every member or officer of a partnership, association, or corporation who will perform or engages in any of the acts specifically set out in Section 2, Subdivision (a) of this Act, other than the designated member or officer of the partnership, association, or corporation, in the manner above provided, shall be required to make application for and take out a separate dealer's license in his or her own name individually; provided, however, that the license issued to such member or officer of a partnership, association, or corporation shall entitle such member or officer to act as a real estate dealer only as officer or agent of said partnership, association, or corporation and not on his own behalf.

(f) Every application for a salesman's license shall be made in writing upon a form prescribed by the administrator of the Securities Division of the office of the Secretary of State and shall contain such information as is required in a dealer's application, and shall also set forth the period of time, if any, such applicant has been in such business, stating the name and address of his last employer, the name and place of business of the person or company then employing him, and in what capacity he is employed or into whose service he is about to enter. The application shall be accompanied by a verified written statement by the dealer into whose service he is about to enter, certifying that in his opinion the applicant is honest, truthful, and of good reputation and recommending that the applicant be granted a license. Every application for a salesman's license shall be verified by the applicant.

(g) Every application for a real estate dealer's license or a real estate salesman's license shall be accompanied by a fee prescribed in Section 16 of this Act.

Sec. 7. (a) No applicant shall be eligible to be licensed under the terms of this Act unless such applicant is at the time of the filing of such application an actual bona fide resident of this State and shall have been an actual bona fide resident of this State for at least sixty (60) days immediately preceding the filing of such application. Provided, however, this provision shall not apply to non-resident applicants who may apply for license under the terms of subdivision (b) hereinafter set forth.

(b) A nonresident of this State may be licensed as a real estate dealer or salesman provided such nonresident is at the time licensed under the laws of the State where he resides and which said State has legal requirements which have for their purpose the standards proposed in this Act; provided, however, that such nonresident must procure from the Administrator of the Securities Division of the office of the Secretary of State a certificate recognizing and approving the reliability and standing of such nonresident in such other State.

(c) A nonresident who applies for a license under the privilege accorded

under Section 6 of this Act and to whom a license is issued under compliance with all other requirements of law and provisions of this Act, shall not be required to maintain a definite place of business within this State; provided, such nonresident, if a dealer, shall maintain an active place of business within the State of his domicile; and provided further that the privilege of so submitting the license of the place of his domicile of a nonresident applicant in lieu of the recommendations and requirements of this Act shall only apply to real estate dealers and real estate salesmen of the States under the laws of which similar recognition and courtesies are extended to licensed real estate dealers and real estate salesmen of this State.

(d) Every nonresident applicant, before the issuance of a license, shall file an irrevocable consent that suits and actions may be commenced against such applicant of the proper court of any county in this State in which the cause may arise or in which the plaintiff may reside by service of process on the Administrator of the Securities Division of the office of the Secretary of State or his agent, and stipulating and agreeing that said service of process shall be taken and held by all Courts to be as valid and binding as if due service had been made upon said applicant personally within this State. Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, and by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals, shall be accompanied by a certified copy of the resolution of the proper officers to execute the same. In case any process for service upon the Administrator of the Securities Division of the office of the Secretary of State, it shall be by duplicate copies, one of which shall be filed in the office of the Administrator of the Securities Division of the office of the Secretary of State, and the other immediately forwarded by registered mail to the main office of the applicant against whom said process is directed.

(e) Any person, firm, partnership, association, or corporation holding a Real Estate Dealer's license, or a Real Estate Salesman's license, or both, who are nonresidents of the

State and are licensed by the State of their residence to deal in real estate are entitled to have a license issued to them to operate in this State, subject to the provisions of this Act, upon the payment of a fee of One (\$1.00) Dollar and the presentation of an affidavit to the Securities Division of the Secretary of State from the agency of the State of his residence showing that he is licensed to do business in that State.

Sec. 8. Application for a real estate dealer's or real estate salesman's license shall contain such other information as to the applicant, in addition to the above described, as the Administrator of the Securities Division of the office of the Secretary of State shall require. The Administrator of the Securities Division of the office of the Secretary of State may require such other proof through the application or otherwise as its officers shall deem desirable with due regard to the paramount interest of the public as to the honesty, truthfulness, integrity, and competency of the applicant.

Sec. 9. If the Administrator of the Securities Division of the office of the Secretary of State is satisfied that the applicant for real estate dealer's or real estate salesman's license is of good business repute and that the business will be conducted in an honest, fair, just, and equitable manner, and upon complying with all other provisions of law and conditions of this Act, a license shall thereupon be granted by the Administrator of the Securities Division of the office of the Secretary of State to the successful applicant therefor as a real estate dealer or real estate salesman, and the applicant, upon receiving possession of license, is authorized to conduct the business of a real estate dealer or real estate salesman in this State.

(b) The Administrator of the Securities Division of the office of the Secretary of State may, within the first thirty (30) days after the effective date of this Act, issue to any applicant a temporary permit to operate as a real estate dealer or real estate salesman for a period not to exceed sixty (60) days after the last day of said thirty-day period, which permit shall be in such form as the Administrator of the Securities Division of the office of the Secretary of State shall prescribe, but after the

expiration of the said sixty (60) days, the Administrator of the Securities Division of the office of the Secretary of State shall not have the authority to issue any temporary permits.

(c) The Administrator of the Securities Division of the office of the Secretary of State shall issue to each licensee a license in such form and size as shall be prescribed by the Administrator of the Securities Division of the office of the Secretary of State. This license shall show the name and address of the licensee, and in case of a real estate salesman's license shall show the name of the real estate dealer by whom he is employed. Each license shall have imprinted thereon the Seal of the State of Texas, and in addition to the foregoing shall contain such matter as shall be prescribed by the Administrator of the Securities Division of the office of the Secretary of State. The license of each real estate salesman shall be delivered or mailed to the real estate dealer by whom such real estate salesman may be employed and shall be kept under the custody and control of such dealer.

(d) The Administrator of the Securities Division of the office of the Secretary of State shall prepare and deliver to each licensee a pocket card, which card, among other things, shall contain an imprint of the Seal of the State of Texas and shall certify that the person whose name appears thereon is a licensed real estate dealer or real estate salesman, as the case may be, and if it is a real estate salesman's card, it shall also contain the name and address of his employer; the matter to be printed on such pocket card, except as above set forth, shall be prescribed by the Administrator of the Securities Division of the office of the Secretary of State.

(e) Every real estate dealer licensed under this Act shall have and maintain a definite place of business in this State, and such place of business may be in a portion of licensee's home set aside for said purpose. The license of the real estate dealer shall at all times be prominently displayed in licensee's place of business, and a duplicate of said license shall likewise be prominently displayed in all branch offices of the licensee. The said place of business shall be specified in the application for license and designated in the license.

(f) All real estate dealers shall also prominently display in their places of business the license of all real estate salesmen employed by them therein or in connection therewith. All licenses issued to real estate salesmen shall designate the employer of said salesmen by name.

(g) Prompt notice in writing within ten (10) days shall be given to the Administrator of the Securities Division of the office of the Secretary of State by any real estate salesman of his change of employer and of the name of the new employer into whose service such salesman is about to enter or has entered, and a new license shall thereupon be issued by the Administrator of the Securities Division of the office of the Secretary of State to such salesman for the unexpired term of the original license; provided, that such new employer shall be a duly licensed real estate dealer. The change of employer or employment by any licensed real estate salesman without notice to the Administrator of the Securities Division of the office of the Secretary of State as aforesaid shall automatically cancel the license to him theretofore issued, and it shall be the duty of the employer named in such license to deliver or mail by registered mail to the Administrator of the Securities Division of the office of the Secretary of State within five (5) days such real estate salesman's license. The real estate dealer shall at the time of mailing such real estate salesman's license to the Administrator of the Securities Division of the office of the Secretary of State, notify the salesman thereof at the address of such real estate salesman that his license has been delivered or mailed to the Administrator of the Securities Division of the office of the Secretary of State. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the Administrator of the Securities Division of the office of the Secretary of State. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this Act, either directly or indirectly under authority of said license from and after the date of receipt of said license from said dealer by the Administrator of the Securities Division of the office of the Secretary of State; provided, that

another license shall not be issued to such real estate salesman until he shall return his former pocket card to the Administrator of the Securities Division of the office of the Secretary of State or shall satisfactorily account to the Administrator of the Securities Division of the office of the Secretary of State for the same; provided, further, that not more than one license shall be issued to any real estate salesman for the same period of time. The Administrator of the Securities Division of the office of the Secretary of State shall issue a new license to said salesman upon the filing of an application for a transfer and the payment of a transfer fee of One Dollar (\$1).

Sec. 10. If the Administrator of the Securities Division of the office of the Secretary of State declines or fails to license an applicant, he shall immediately give notice of the fact to the applicant and upon request from such applicant filed within ten (10) days after the receipt of such notice, shall fix a time and place for hearing, of which ten (10) days notice shall be given to such applicant and to other persons interested or protesting to offer evidence relating to the real estate dealer's application. In each such case the Administrator of the Securities Division of the office of the Secretary of State shall fix the time of such hearing on a date within thirty (30) days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time on account of the applicant. If satisfied as aforesaid as a result of such office of the Secretary of State shall thereupon license the real estate dealer.

Sec. 11. The Administrator of the Securities Division of the office of the Secretary of State may upon his own motion and shall upon the verified complaint in writing of any person, investigate the actions of any real estate salesman or real estate dealer or any person who shall assume to act in either such capacity within this State, and may suspend or revoke or refuse to renew any license at any time where the real estate salesman or real estate dealer in performing or attempting to perform any act as a real estate dealer or real estate salesman, or in any transaction involving the leasing or sale of an interest in real estate, is guilty of:

(1) Knowingly making any substantial misrepresentation, or

(2) Making any false promises with intent to influence, persuade, or induce, or

(3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or salesmen, or advertising or otherwise, or

(4) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto, or

(5) Failure within a reasonable time to account for or to remit any moneys coming into his possession which belong to others, or

(6) Any other conduct, whether of the same or a different character than hereinabove specified, which constitutes dishonest dealings.

The Administrator of the Securities Division of the office of the Secretary of State may also suspend or revoke or refuse to renew the license of any licensee who at any time has:

(1) Procured a license under this Act for himself or any salesman by fraud misrepresentation, or deceit, or

(2) Has been convicted of a felony, knowledge of which the Administrator of the Securities Division of the office of the Secretary of State did not have at the time of last issuing a license to such licensee, or

(3) Wilfully disregarded or violated any of the provisions of the law, or

(4) Demanded from an owner a commission to which he is not justly entitled, or

(5) Paid commissions or fees to, or divided commissions or fees with anyone not licensed as a real estate dealer or salesman, or

(6) Used any trade name or insignia of membership in any real estate organization of which he is not a member, or

(7) Accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal, or

(8) Solicited, sold, or offered for sale real property by offering "free lots" or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real property, or

(9) Acted in the dual capacity of broker and undisclosed principal in any transaction, or

(10) Guaranteed, authorized, or

permitted any person to guarantee future profits which may result from the resale of real property, or

(11) Placed a sign on any property offering it for sale or for rent without the written consent of the owner or his authorized agent, or

(12) Induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract with another principal, or

(13) Negotiated the sale, exchange or lease of any real property directly with an owner or lessor knowing that such owner or lessor had a written outstanding contract granting exclusive agency in connection with such property with another real estate broker, or

(14) Offered real property for sale or for lease without the knowledge and consent of the owner or his authorized agent, or any terms other than those authorized by the owner or his authorized agent, or

(15) Published advertising whether printed, radio, display, or any of any other nature which was misleading, or inaccurate in any material particular, or in any way misrepresented any properties, terms, values, policies, or services of the business conducted, or

(16) Knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular, or

(17) Published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harrassing competitors or intimidating their customers.

This Section of this Act shall not be construed to relieve any person or company from civil liability or from criminal prosecution under this Act or under the laws of this State.

Sec. 12. The Administrator of the Securities Division of the office of the Secretary of State shall before suspending or revoking any license, notify in writing the licensee of any charges made in order to afford such licensee an opportunity to be heard, which notification shall be given at least ten (10) days prior to the date set for the hearing. The Administrator of the Securities Division of the office of the Secretary of State shall prescribe the time and place of the hearing. The Administrator of the Securities Division shall have no

authority to promulgate rules or regulations which are not definitely set forth in this Act. Such written notice may be served by mailing same by registered mail to the last known business address of such licensee. If such licensee be a salesman, the Administrator of the Securities Division of the office of the Secretary of State shall also notify the real estate dealer employing him, specifying the charges made against such real estate salesman by sending a notice thereof by registered mail to the real estate dealer's last known address. At such hearing, or at any other provided for in this Act, the counsel, any and all persons complaining against him, and as well any other witness whose testimony is relied upon to substantiate the charges made. He shall also be entitled to present evidence, oral and written, as he may see fit, and as may be pertinent to the inquiry. The said hearing may be held by the Administrator of the Securities Division of the office of the Secretary of State or any person duly authorized by the Administrator of the Securities Division of the office of the Secretary of State, which authorization shall be in writing and authenticated by the Seal of the State, and the said hearing shall be held, if the applicant or licensee so desires, within the county where the applicant or licensee has his principal place of business. In such hearing all witnesses shall be duly sworn by the person herein authorized to preside, and stenographic notes of the proceedings shall be taken and filed as part of the records in the case. Any party to the proceedings desiring it shall be furnished with a copy of the stenographic notes upon the payment to the Administrator of the Securities Division of the office of the Secretary of State of a fee not to exceed Twenty-five (25) Cents per page.

Sec. 13. No person or company engaged in the business of acting in the capacity of a real estate dealer or real estate salesman within this State shall bring or maintain any action in the Courts of this State for the collection of compensation for the performance of any of the acts mentioned in Section 2, Subdivision (a) hereof, without alleging and proving that such person or company was a duly licensed real estate dealer or salesman at the time the alleged cause of action arose.

Sec. 14. The Administrator of the Securities Division of the office of the Secretary of State, or any person duly authorized by the Administrator of the Securities Division of the office of the Secretary of State, which authorization shall be in writing and authenticated by the Seal of the State, may require by subpoena or summons issued by the Administrator of the Securities Division of the office of the Secretary of State or any person duly authorized to act for the Administrator of the Securities Division of the office of the Secretary of State, addressed to the sheriff or any constable, the attendants and testimony of witnesses and the production of any books, accounts, records, papers, and correspondence (except such books of account as are necessary to the continued conduct of the business, which books the Administrator of the Securities Division of the office of the Secretary of State shall have the right to examine or cause to be examined at the office of the concern and to require copies of such portion thereof as may be deemed necessary) touching such matter in question, which copies shall be verified by affidavit of an officer of such concern and shall be admissible in evidence as provided in Section 18 hereof, relating to any matter which the Administrator of the Securities Division of the office of the Secretary of State has authority by this Act to consider or investigate, and for this purpose the Administrator of the Securities Division of the office of the Secretary of State, or any person duly authorized by the Administrator of the Securities Division of the office of the Secretary of State, may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena or of the contumacy of any witness appearing before the Administrator of the Securities Division of the office of the Secretary of State, the Administrator of the Securities Division of the office of the Secretary of State or the person duly authorized to act for him may invoke the aid of the District Court within whose jurisdiction any witness may be found and such Court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence or produce books, accounts, records, papers, and correspondence touching the matter in ques-

tion. Any failure to obey such order of the Court may be punished by such Court as a contempt thereof.

(b) The Administrator of the Securities Division of the office of the Secretary of State, or any person duly authorized by the Administrator of the Securities Division of the office of the Secretary of State, may in any investigation cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed for depositions in civil actions under the laws of Texas. Each witness required to attend any hearing provided for in this Act shall receive for each day's attendance the sum of Two Dollars (\$2.00) and shall receive in addition the sum of Five (5) Cents for each mile travelled by such witness by the usual route going to and returning from the place where his presence is required. All disbursements made in the payments of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses incident to the administration and enforcement of this Act, as hereinbefore provided for. The fee for serving the subpoena shall be the same as that paid the Sheriff for similar services. The fees, expenses, and costs incurred at or in connection with any hearing may be imposed by the Administrator of the Securities Division of the office of the Secretary of State upon any party to the record or may be divided between any and all parties to the record in such proportions as the Administrator of the Securities Division of the office of the Secretary of State may determine.

Sec. 15. (a) Any real estate dealer, real estate salesman, owner, or subdivider aggrieved by any decision of the Secretary of State may file within thirty (30) days thereafter in the District Court of the County in which he resides, or in the District Court in the county where his principal place of business is situated, a petition against the Secretary of State officially as defendant, alleging therein in brief detail the action and decision complained of and for an order directing the Secretary of State to license the applicant or grant an owner or subdivider a permit, as the case may be. Upon service of the summons upon the Secretary of State, returnable within ten (10) days from its date, the Secretary of State shall

on or before the return day file an answer. The case shall be tried in the District Court de novo, upon its merits.

Sec. 15. (b) The District Court may, upon application of either party and upon due notice given, advance the case on the docket. From the decision of the District Court, an appeal may be taken to the Court of Civil Appeals by either party, as in other cases, and no bond shall be required by the Secretary of State. A judgment in favor of the plaintiff shall not bar after one year a new application by the plaintiff for a license, nor shall a judgment in favor of the plaintiff prevent the Secretary of State from thereafter revoking or refusing to license such person for any proper cause which may thereafter accrue or be discovered. The Court shall have full power to dispose of all costs.

Sec. 16. The Administrator of the Securities Division of the office of the Secretary of State shall charge and collect the following fees and shall duly pay all fees received into the State Treasury.

(a) A fee of Three Dollars (\$3) for the filing of any original or renewal application of a real estate dealer, which fee shall include the cost of the issuance of a license if any should be issued.

(b) A fee of Three Dollars (\$3) for the filing of any original or renewal application of a real estate dealer, which fee shall include the cost of the license, who is a member of a partnership, or association or an officer of a corporation licensed under the provisions of this Act, other than the member of the partnership, or association or the officer of the corporation named in the license issued to such partnership, association, or corporation.

(c) A fee of Three Dollars (\$3) for the filing of any original or renewal application of a real estate salesman, which fee shall include the cost of the issuance of the license if any should be issued.

(d) A fee of One Dollar (\$1) for each duplicate license where the original license is lost or destroyed and an affidavit made thereof, and where a duplicate is required for a branch office in this State.

(e) A fee of One Dollar (\$1) for

each duplicate or transfer of salesman's license.

Sec. 17. All licenses issued under the provisions of this Act shall expire on December 31st of each year at midnight, and application for the renewal thereof shall be made in such form as the Administrator of the Securities Division of the office of the Secretary of State shall prescribe. Applications for renewal of said licenses may be made between the 15th day of November and the 31st day of December.

Sec. 18. Upon and after the effective date of this Act, all moneys derived from fees, assessments, or charges under this Act, shall be paid by the Administrator of the Securities Division of the office of the Secretary of State into the State Treasury for safekeeping, and shall by the State Treasurer be placed in a separate fund to be available for the use of the Administrator of the Securities Division of the office of the Secretary of State in the administration of this Act upon requisition of the Administrator of the Securities Division of the office of the Secretary of State. All such moneys so paid into the State Treasury are hereby specifically appropriated to the Administrator of the Securities Division of the office of the Secretary of State for the purpose of paying the salaries and expenses of all persons employed or appointed as provided herein for the administration of this Act, and all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such offices or quarters as the Administrator of the Securities Division of the office of the Secretary of State may occupy, and necessary traveling expenses for the Administrator of the Securities Division of the office of the Secretary of State or persons authorized to act for him when performing duties hereunder at the request of the Administrator of the Securities Division of the office of the Secretary of State. At the end of the calendar year, any unused portion of said funds in said special account shall be set over and paid into the general revenue fund. The Comptroller shall upon requisition of the Administrator of the Securities Division of the office of the Secretary of State from time to time draw warrants upon the State Treas-

urer for the amount specified in such requisition, not exceeding, however, the amount in such fund at the time of making any requisition, provided however that all moneys expended in the administration of this Act shall be specified and determined by itemized appropriation in the general departmental appropriation bill for the office of Secretary of State and not otherwise.

Sec. 19. Copies of all papers, instruments, or documents filed in the office of the Administrator of the Securities Division of the office of the Secretary of State certified under the Seal of the State of Texas, shall be admitted to be read in evidence in all Courts of law and elsewhere in this State in all cases where the original would be admitted in evidence, provided that in any proceeding in the Court having jurisdiction, the Court may on cause shown require the production of the originals. In any prosecution, action, suit or proceeding before any of the several Courts of this State, based upon or arising out of or under the provisions of this Act, a certificate under the Seal of the State duly signed by the Administrator of the Securities Division of the office of the Secretary of State showing compliance or noncompliance with the provisions of this Act respecting compliance or noncompliance with the provisions of this Act by any real estate dealer or salesman, shall constitute prima facie evidence of such compliance or noncompliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act.

Sec. 20. It shall be unlawful for any real estate dealer or real estate salesman to offer, promise, allow, give, or pay directly or indirectly any part or share of his commission or compensation arising or accruing from any real estate transaction to any person who is not a licensed dealer or salesman in consideration of service performed or to be performed by such unlicensed person, and no real estate salesman shall be employed by or accept compensation from any person other than the dealer under whom he is at the time licensed, and it shall be unlawful for any licensed real estate salesman to pay a commission to any person except through

the dealer under whom he is at the time licensed.

Sec. 21. Any person, or agent, officer, or employee of any company, acting as a real estate dealer or real estate salesman within the meaning of this Act, without first having been licensed by the Administrator of the Securities Division of the office of the Secretary of State, and every officer, agent, or employee of any company, and every other person who knowingly authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any land or subdivision offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus, or letter concerning any land or subdivision contains any written statement that is false or fraudulent issues, circulates, published, or distributes the same, or shall cause the same to be issued, circulated, published, or distributed, or who, in any other respect, willfully violates or fails to comply with any provisions of this Act, or who in any other respect willfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand, or requirement of the Administrator of the Securities Division of the office of the Secretary of State under this Act as herein provided, shall upon conviction therefor be sentenced to pay a fine of not more than Five Hundred Dollars (\$500) or imprisonment in the county jail for not more than one year or both such fine and imprisonment.

Sec. 21 (a) This Act shall not apply to the sale of any property when such sale is made by the owner, or one of the owners, or the attorney for said owner or owners.

Sec. 22. No action shall be brought in any court in this State for the recovery of any commission for the sale or purchase of real estate unless the promise or agreement upon which such action shall be brought, or some memorandum thereof, shall be in writing and signed by the party to be charged therewith or by some person by him thereunto lawfully authorized. This provision shall not apply to any action for commissions pending in any court in this State at the effective date of this Act.

Sec. 23. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Sec. 24. The importance of this Act and the need of more efficient and effective means of preventing fraud in the sale of real estate, and the need of a more efficient and effective means of regulating the real estate business, creates an emergency and an imperative public necessity that the constitutional rule which requires that bills be read on three several days in each House be, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage and it is so enacted.

Report of Conference Committee on House Bill 1061

Senator Shivers submitted at this time the following report of the Conference Committee on H. B. No. 1061:

Austin, Texas,
June 19, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Sirs: We, your Conference Committee, appointed to adjust the difference between the Senate and the House on H. B. No. 1061, have met and beg leave to recommend that said H. B. No. 1061 be passed in the form hereto attached.

Respectfully submitted,
SHIVERS,
MOORE,
ROBERTS,
BURNS.
HEAD,

On the part of the Senate.

CLARK,
BOYER,
MONTGOMERY,
McNAMARA,

On the part of the House.

By Clark.

H. B. No. 1061.

A BILL

TO BE ENTITLED

An Act providing amount of payment to the Executive Committee in order to have the name placed on official ballot for Representative and Floterial Representative and Floterial Representative No. 2 in certain counties; repealing all laws and parts of laws in conflict herewith to the extent of the conflict only; and declaring an emergency. Be it enacted by the Legislature of the State of Texas:

Section 1. That from and after the effective date of this Act, in all counties in this State having a population of not less than one hundred and thirty-three thousand, three hundred and ninety-one (133,391), and not more than one hundred and fifty thousand (150,000), and in all counties in this State having a population of not less than fifteen thousand, one hundred and forty-nine (15,149) and not more than fifteen thousand, five hundred and twenty-five (15,525), according to the last preceding Federal Census, no person who is a candidate in a primary election of such counties, for nomination for State Representative, shall have his or her name placed on the primary ballot to be voted on at any election unless and until he or she has paid to the County Executive Committee of the political party, whose nomination he or she seeks, the sum of One Hundred Dollars (\$100.00); provided, however, that where said counties are a part of a Floterial Representative District, the Floterial Representative in such counties shall not have his or her name placed on the official ballot for Floterial Representative unless and until he or she shall have paid to the Chairman of the County Executive Committee of the political party, whose nomination he or she seeks, the sum of Fifty Dollars (\$50.00), in each of said counties.

Sec. 2. All laws and parts of laws in conflict herewith are repealed to the extent of the conflict only.

Sec. 3. The fact that the Executive Committee in some of the counties embraced within this Act, do not have the right to assess a fee in excess of One Dollar (\$1.00) against candidates for Representative in the State Legislature, and the fact that this fee is inequitable compared with

the fees charged candidates for other offices create an emergency and an imperative public necessity that the constitutional rule requiring that all bills be read on three several days in each House be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after the date of its passage, and it is so enacted.

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate Amendments to H. B. No. 791 by a vote of 118 ayes and 2 noes.

The House has adopted the conference committee report on House Bill No. 971 by a vote of 134 ayes, 0 noes.

The House has adopted the conference committee report on Senate Bill No. 179 by a vote of 118 ayes, 10 noes.

The House has passed the following resolutions:

H. C. R. No. 205, Suspending joint rules of both Houses so that the Senate can take up and consider on third reading and final passage House Bill No. 344.

S. C. R. No. 64, Requesting the State Highway Department to loan discarded wire to Blinn Memorial College, etc.

S. C. R. No. 65, Providing that in case any word, clause, sentence, or part of Senate Bill No. 320 be adjudged by any court of competent or final jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of said Senate Bill No. 320.

S. C. R. No. 66, Providing for investigation by State Park Board as to the desirability of the site of the home of David G. Burnet, the First Provisional President of the Republic of Texas, as a State Park.

S. C. R. No. 68, Authorizing the State Highway Department of Texas to loan to the Carmine School District certain discarded wire for fencing purposes.

S. C. R. No. 69, Providing that the joint rules be suspended to the extent necessary for the House to consider Senate Bill No. 458.

S. C. R. No. 70, Providing that all joint rules prohibiting the consideration of bills during the last twenty-four (24) hours be suspended, etc.

H. C. R. No. 204, Resolving that Rules and Joint Rules of both Houses be suspended so that the House and the Senate can take up and consider certain bills.

H. C. R. No. 201, Granting the District Judges of certain Districts in the State of Texas permission to leave the State during the years 1939 and 1940.

Respectfully submitted,

E. R. LINDLEY,
Chief Clerk, House of Representatives.

(Senator Pace in the Chair.)

Report of Conference Committee on House Bill 1000

Senator Winfield submitted at this time the following report of the conference committee on H. B. No. 1000:

Austin, Texas,
June 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 1000, have had the same under consideration and we recommend to the Senate and to the House of Representatives that such bill pass in the form attached hereto.

Respectfully submitted,

WINFIELD,
SPEARS,
METCALFE,
BROWNLEE,
KELLEY,

On the part of the Senate.

GILMER,
ANDERSON,
FELTY,
HANKAMER,
PETSCH,

On the part of the House.

By Gilmer, Petsch. H. B. No. 1000.

A BILL

TO BE ENTITLED

An Act applicable to the Counties of Mason, Menard, Kerr, Schleicher, Crockett, Sutton, Kimble, Real, Edwards, Blanco, Llano, Kendall, Gillespie, El Paso, Hudspeth, Culberson, Val Verde, Kinney, Terrell, Medina, and Brewster, State of Texas, requiring a resident hunting license of any resident citizen of this State hunting in said Counties, with certain exceptions; requiring a resident fishing license of any resident citizen of this State fishing in said Counties, with certain exceptions; excepting certain waters from the provisions of the Act; providing for the remittance to the Game, Fish and Oyster Commission of all funds collected under the provisions of this Act and providing for the disposition of same; providing a limit of not more than two (2) wild turkeys in each open season; providing suitable penalties for violation of any provision of this Act; repealing all laws, in so far as they conflict with any provision of this Act; especially repealing House Bill No. 1173, being Chapter 494, General and Special Laws, Forty-fifth Legislature; providing the rule of construction; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The provisions of this Act shall apply to the Counties of Mason, Menard, Kerr, Schleicher, Crockett, Sutton, Kimble, Real, Edwards, Blanco, Llano, Kendall, Gillespie, El Paso, Hudspeth, Culberson, Val Verde, Kinney, Terrell, Medina and Brewster.

Sec. 2. It shall be unlawful for any resident citizen of this State to hunt in the Counties named in Section 1 of this Act without first having procured from the Game, Fish and Oyster Commission or one of its authorized agents, a resident hunting license for which he shall pay the sum

of Two Dollars (\$2.00); Fifteen (15) Cents of which shall be retained by the officer issuing such license as his fee for collecting same, and which license shall be valid until August 31st following the date of issuance of such license, provided that such license shall not be required of any person under seventeen (17) years of age or of any person hunting on land which he owns or upon which he resides. Provided further, that any person owning a resident or a non-resident hunting license purchased in any county in Texas shall be entitled to hunt in any county in Texas and shall not be required to purchase any other license because of the provisions of this Act.

Sec. 3. It shall be unlawful for any resident citizen of this State to catch or attempt to catch any fish in any county named in Section 1 of this Act without first procuring a resident fishing license from the Game, Fish and Oyster Commission or from one of its authorized agents, for which he shall pay the sum of Fifty-five (55) Cents; Five (5) Cents of which shall be retained by the officer issuing such license as his fee for collecting, provided that such resident fishing license shall not be required of any person under seventeen (17) years of age or of any person fishing in the county of his residence on lands which he owns or upon which he resides or of any person who holds an artificial lure license or a commercial fisherman's license. The provisions of this Section shall not extend to nor include the waters of the Colorado River, nor of Inks Lake nor of Buchanan Lake.

Sec. 4. All moneys collected from the sale of hunting license in the counties named in Section 1 of this Act, after the fee for collecting same has been deducted, shall be remitted to the Game, Fish and Oyster Commission at their office in Austin, Texas, by the tenth day of the month following the date of issuance of such licenses and shall be deposited by the Game, Fish and Oyster Commission in the State Treasury to the credit of the Special Game Fund of each of the several counties and shall be used for any or all of the purposes provided by law and not less than ninety (90) per cent of the amount collected in each county to which this Act applies shall be expended in such respective county from which such funds

were collected. All moneys collected from the sale of fishing licenses, in the counties named in Section 1 of this Act, after the fee for collecting same has been deducted, shall be remitted to the Game, Fish and Oyster Commission at their office in Austin, Texas, by the tenth day of the month following the date of issuance of such licenses and shall be deposited by the Game, Fish and Oyster Commission in the State Treasury to the credit of the Fish Propagation and Protection Fund and shall be used for any or all of the purposes provided by law, and not less than ninety (90) per cent of the amount collected in each county to which this Act applies shall be expended in such respective county from which such funds were collected.

Sec. 4a. The Game Department shall keep an accurate account of the amounts of moneys collected under the provisions of Sections 2 and 3 of this Act and expended in each of the several counties and the purposes for which such moneys were expended; a copy of such account shall be mailed to the County Judge of each of the several counties within thirty (30) days after the close of the fiscal year.

Sec. 5. Any resident citizen of this State who hunts or attempts to hunt or who fishes or attempts to catch fish without first procuring the license required of him by the provisions of this Act or who fails or refuses on demand by any officer to show such officer the license required of him by this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) and shall automatically forfeit any license issued to him under the provisions of this Act and any of the privileges given thereunder for a period of one year following date of conviction.

Sec. 5a. No person shall be allowed to kill or take in any of the above named counties, more than two (2) wild turkey gobblers during the open season, as provided by law, of any year, and each gobbler killed by any one person above the limit herein prescribed, shall be a separate offense.

Sec. 5b. Any person violating any provision of Sec. 5a of this Act shall be deemed guilty of a misdemeanor

and upon conviction shall be fined in any sum not less than Ten (\$10.) nor more than Fifty (\$50.) Dollars, and shall automatically forfeit any license issued to him under the provisions of this Act for a period of one year following date of final conviction.

Sec. 6. All laws or parts of laws, in so far as they conflict with any portion of this Act be and the same are hereby repealed and House Bill No. 1173, Being Chapter 494, General and Special Laws, Forty-fifth Legislature, is hereby specially repealed.

Sec. 7. If any paragraph, section, or part of this Act is held unconstitutional or inoperative it shall not affect any other paragraph, section, or part of this Act and the remainder of this Act, except the part declared unconstitutional or inoperative, shall continued to be in full force and effect.

Sec. 8. The fact that the existing law with reference to hunting and fishing licenses does not provide the necessary funds for adequate conservation of the game and fish resources of the Counties to which this Act applies, and the fact that a large number of persons who hunt and/or fish in said Counties are now exempt from payment of licenses, create an emergency and an imperative public necessity that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall be in force and effect from and after its passage, and it is so enacted.

The Presiding Officer laid the report before the Senate for consideration at this time.

The report was adopted.

(President in the Chair.)

Report of Conference Committee on House Bill 933

Senator Aikin called for the consideration at this time of the report of the conference committee on H. B. No. 933, the report having been submitted on yesterday and printed in the Journal of that day.

The President laid the report before the Senate.

Question—Shall the report be adopted?

Senator Nelson submitted the following motion in writing:

Mr. President: I move that the conference committee on House Bill No. 933 be discharged and that a new committee be appointed with instruction to change the transportation division to \$2.00 for each child transported to be based on need.

Senator Van Zandt moved to table the motion.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—19

Aikin	Roberts
Beck	Shivers
Brownlee	Stone
Burns	of Galveston
Hardin	Stone
Hill	of Washington
Isbell	Sulak
Kelley	Van Zandt
Martin	Weinert
Moore	Winfield
Pace	

Nays—11

Collie	Metcalf
Cotten	Moffett
Graves	Nelson
Head	Small
Lanning	Spears
Lemens	

Absent

Redditt

Question recurring on the report, it was adopted by the following vote:

Yeas—30

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Pace
Collie	Redditt
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield

Absent

Roberts

Bill and Resolutions Signed

The President signed, in the presence of the Senate, the following enrolled bill and resolutions:

H. B. No. 912, "An Act further regulating the sale, transportation, storage, manufacturing, etc., of alcoholic beverages in this State under the Texas Liquor Control Act, etc., and declaring an emergency."

H. C. R. No. 179, Granting A. J. Clingan permission to sue the State of Texas.

H. C. R. No. 193, Granting Mrs. Woodie Spore permission to sue the State.

Recess

Senator Moore moved that the Senate recess to 10:00 o'clock a. m. tomorrow.

Senator Collie moved that the Senate recess to 9:00 o'clock a. m. tomorrow.

Question first recurring on the motion of Senator Moore, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—17

Beck	Moffett
Brownlee	Moore
Burns	Pace
Cotten	Roberts
Graves	Shivers
Kelley	Small
Lanning	Sulak
Lemens	Weinert
Martin	

Nays—13

Aikin	Spears
Collie	Stone
Hardin	of Galveston
Head	Stone
Hill	of Washington
Isbell	Van Zandt
Metcalfe	Winfield
Nelson	

Absent

Redditt

The Senate, accordingly, at 5:20 o'clock p. m., took recess until 10:00 o'clock a. m. tomorrow.

In Memory of
Hon. George W. Bowman

(Senate Resolution 102)

Senator Hill offered the following resolution:

Whereas, on the 15th day of June, A. D. 1939 our Almighty God in His superior judgment, called from our earthly ranks the late George W. Bowman of Henderson, Texas, at the age of 51 years, and

Whereas, Mr. Bowman was born on December 11th, 1887 at Joshua, Texas. He attended Polytechnic Institute in Fort Worth and North Texas Teachers College, Denton, and then launched his school-teaching days at the Masonic Orphans' Home in Fort Worth. From Fort Worth he went to Venus, where he was instructor in the schools prior to the purchase of the town's weekly newspaper. He later acquired the Itasca Item, which he owned for several years. In 1926 Mr. Bowman entered the daily newspaper field, when he reorganized the Cleburne Times, and in 1931 went to Henderson as a partner of D. R. Harris and organized the News Publishing Company, Henderson's first daily newspaper, and

Whereas, Mr. Bowman always took an active lead in civic activities, always a booster for the development of Henderson and East Texas, and was truly an enthusiastic newspaper man, and an outstanding member of the Texas Press Association, and

Whereas, in addition to his success as a newspaper man, he generously contributed his time and talent to humanitarian interest and the welfare of his fellow citizens. He was always consistently outspoken on social, economic, governmental and political problems of the day, and by Mr. Bowman's contribution of good deeds, both to his community and State shall keep his memory ever aglow, meriting him the highest honor and ovation this State can pay; now, therefore, be it

Resolved by the Senate of Texas, That the entire membership thereof join with the bereaved family, and the many citizens of Texas who knew this good man, throughout his life, in expressing their sorrow over his passing, and say in tribute to his worthy life that he leaves a lasting impression and a keen recollection of his many useful, kind and considerate acts during his brief span of life upon all those who had the honor and the good fortune to know him; and, be it further

Resolved, That an enrolled copy of this resolution be sent to Mrs. Bowman and family with the condolence of every member of the Texas State Senate.

HILL,
PACE,
LEMENS.

The resolution was read and was unanimously adopted.